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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CIVIL APPLICATION (CAS) NO. 275/2021

WITH

CIVIL APPLICATION (CAS) NO.276/2021

WITH

CIVIL APPLICATION (CAS) NO. 277/2021

IN

SECOND APPEAL NO.162/2007

Mallaya s/o Chandrayya Mapnurwar,

-VERSUS-

Bapuji s/o Timaji Bhandarkar through his legal representatives Smt. Shantabai wd/o Bapuji
Bhandarkar and others.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Mrs R.S. Sirpurkar, Advocate for appellant.

Shri A.Y. Kapgate, Advocate for respondent Nos. 1, 3 and 5.

CORAM : S.M. MODAK, J.

DATE : JULY 22, 2021.

Hearing was conducted through Video Conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. Heard Mrs R.S. Sirpurkar, learned Advocate for the legal representatives of deceased-appellant and Shri Kapgate, learned Advocate for the respondent Nos. 1, 3 and 5. Though, the appellant expired on 12/11/2020, steps were not taken within the period of 90 days to bring his legal representatives on record. The reason quoted is illiteracy of the legal representatives in knowing the procedure. Learned Advocate for the respondents opposed the application and according to them the details about the literacy are not given

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and in fact the legal representatives are residing in a city.

3. Copy of the death certificate is annexed which mentions the date of death of the appellant as 12/11/2020. Many times, it happens that legal representatives are not aware about the procedure to be followed. Whether they are literate or illiterate does not make any difference. Thus, I am inclined to allow all these applications. The reasons given for condonation of delay is justifiable. Hence the order:

- i) The order of abatement of appeal is set aside.
- ii) Delay caused in bringing the legal representatives and delay caused in filing an application for setting aside the abatement is condoned.
- iii) The legal representatives of deceased appellant be brought on record and necessary amendment be carried out. Amended copy be served to respondents.
- iv) The legal representatives of deceased-appellant to pay costs of Rs.500/- to respondent nos. 1, 3 and 5.

4. All Civil Applications are disposed of.

5. The matter be kept after four weeks.

JUDGE