

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

CIVIL APPLICATION (S) NO. 1377 OF 2014 AND
CIVIL APPLICATION (S) NO. 1378 OF 2014 AND
CIVIL APPLICATION (S) NO. 1379 OF 2014 AND
CIVIL APPLICATION (S) NO. 1380 OF 2014 IN
SECOND APPEAL NO. 366 OF 2013

(Baburao s/o Jivlag Wahane, Nagpur Vs. Janardan s/o Ramchandra Pal & Ors.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Shri Anand Deshpande, Advocate for the applicant/
appellant.
Shri K.B. Ambilwade, Advocate for the LR's of respondent
No.1(1-A to 1-C) and 2.

CORAM : PUSHPA V. GANEDIWALA, J.
JANUARY 08, 2021.

These applications are for condonation of delay in filing application for setting aside abatement and in bringing the legal representatives of respondent No.1 (1-A to 1-C) on record.

2] The application for condonation of delay (CAS No.1377/2014) is presented before this Court on 20/08/2014.

3] On perusal of the record, it emerges that Second Appeal Stamp No. 9045/2010 came to be dismissed for want of removing office objection/s.

The first notice, to the respondents, was issued before admission on 11/10/2013. That as per bailiff report dated 03/11/2013, respondent Nos.1 and 4 were reported to be dead on 21/12/2010 and 22/01/2013 respectively. The appeal came to be abated against respondent Nos.1 and 4 vide Registrar Judicial's order dated 03/04/2014. Thereafter, after four months, the application for bringing legal representatives of respondent No.1 came to be filed.

4] It is stated that after the applicant came to know about the demise of respondent No.1, he approached his counsel on 07/06/2014. That the applicant being a layman, was not aware about the legal formalities. This, in the opinion of this Court, is sufficient ground for condoning the delay.

5] Hence, the applications are allowed. Delay is condoned. Abatement against respondent No.1 is set aside. The appellant is permitted to bring on record the legal representatives of respondent No.1 on record.

6] The amendment shall be carried out within a period of one week from today. Learned counsel for the appellant to serve the amended copy of memo of appeal to the learned counsel for the respondents.

7] After carrying out amendment, issue notice to the newly added respondents, returnable four weeks thereafter.

8] Shri K.B. Ambilwade, learned counsel, waives service of notice for the legal representatives of respondent No.1.

JUDGE

Sumit