

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CIVIL APPLICATION NO.5313 OF 2021
IN SA/758/2012**

**MURLIDHAR BABURAO DHAKNE DIED LRS. CHHABUBAI MURLIDHAR
DHAKNE AND OTHERS
VERSUS
SUGANDHABAI DEORAO DIGHOLE (DECEASED) LRS. KADUBAI MADHUKAR
BADE AND ANOTHER**

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Advocate for Applicants : Mr. Layak S. Shaikh
Advocate for Respondents : Mr. M. N. Shaikh h/f. Mr. S. S. Kazi

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CORAM : MANGESH S. PATIL, J.

DATED : 20 APRIL 2022

PER COURT :

1. This is an application for setting aside the abatement on account of death of the sole appellant - Murlidhar Baburao Dhakne, with a prayer to condone the delay of 1895 days in filing the application.
2. Second appeal is of the year 2012. It is still awaiting admission.
3. Considering the ratio laid down by the Apex Court in the matter of **Perumon Bhagvathy Devaswom... Vs. Bhargavi Amma (Dead) Through Lrs. and Ors.; 2008 (8) SCC 321**, the party is entitled to rely upon his Advocate for further communication in regard to the progress of the matter.

4. Considering the nature of the dispute and all the aforementioned facts and circumstances, for the reasons mentioned in the application, which the delay does not appear to be either deliberate or intentional, the application is allowed.
5. Delay is condoned. Abatement is set aside and the legal representatives of the sole appellant are allowed to be brought on record.
6. Amendment to be carried out within two weeks.

(MANGESH S. PATIL, J.)