

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

908 CIVIL APPLICATION NO.2738 OF 2012
IN SA/99/2005 WITH CA/338/2016 IN SA/99/2005

JAIBUNNISA BEGAM ABDUL KHALAK PATEL DIED LRS ABDUL KHALED
ABDUL SAMAD PATEL AND ORS
VERSUS
MUNIRODDIN DADAMIYAN PATEL and ORS

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Advocate for Applicants : Mr. S. V. Natu.

CORAM : MANGESH S. PATIL, J.
DATE : 12.04.2022.

PER COURT :

This is an application for setting aside abatement qua the respondent No. 4 with a prayer to condone the delay.

2. Notice is duly served to the only heir of respondent No 4 which is styled as respondent No. 4/1 in this application. She has not appeared.

3. For the reasons mentioned in the application coupled with the nature of the dispute and the fact that the second appeal has been filed in the year 2005, the application is allowed. The delay is condoned. Abatement is set aside and the legal representative is allowed to be brought on record in second appeal.

4. There is one more prayer in the application, though the appeal has been directed to be disposed of as against the respondent no. 8, the prayer is made for setting aside the abatement by condoning the delay and to delete the name of respondent no. 8 as, respondent No. 2, who is his legal representative is already on the record.

5. Since the legal representative is already on record, there is no

question of abatement and consequentially no question of condoning the delay. The applicants to carry out the necessary amendment in the title clause of the second appeal within two weeks.

6. The Application is disposed of.

7. Civil Application No. 338/2016 has been filed for setting aside abatement qua the respondent No. 5 with a prayer to condone the delay.

8. The proposed legal representative of respondent No. 5 has been duly served but has not appeared.

9. For the reasons mentioned in the application, the application is allowed. The delay is condoned. The abatement is set aside. Necessary abatement to be carried out within two weeks.

(MANGESH S. PATIL, J.)

mkd/-