

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

912 CIVIL APPLICATION NO.642 OF 2020
IN SA/31/2017

SHRI. ADHAR DONGAR MARATHE AND ORS
VERSUS
SMT. BEBABAI NAGO MARATHE DIED LRS. SUMAN NAGO MARATHE

...

Advocate for Applicants : Mr. Malte Uday S.

Advocate for Respondent : Mr. P. P. Dhorde.

CORAM : MANGESH S. PATIL, J.
DATE : 29.03.2022.

PER COURT :

By way of this application the applicants/appellants are seeking setting aside of abatement qua the sole respondent with a prayer to condone the delay of 159 days in moving the application.

2. I have heard the learned advocates for both the sides and perused the affidavit in reply.

3. It is true that an intimation under Order XXII Rule 10A of the Code of Civil Procedure was given on 07.03.2019 and still there is a delay of 159 days.

5. However, there is nothing on record to demonstrate that the delay has occasioned deliberately or intentionally. The second appeal was filed in the year 2017 and as has been laid down in the matter of **Perumon Bhagvathy Devaswom ... vs Bhargavi Amma (Dead) Through Legal Representatives; 2008 (8) Supreme Court Cases 321**, the parties usually rely upon their advocates for further communication which results in communication gap, that seems to be a case in the matter in hand.

6. For the reasons mentioned in the application, the delay is condoned. The abatement is set aside. Necessary amendment to be carried out within two weeks.
7. Learned advocate Mr. Dhorde waives service on behalf of the persons to be added.
8. List the second appeal for admission on 27.04.2022.

(MANGESH S. PATIL, J.)

mkd/-