

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

913 CIVIL APPLICATION NO.14035 OF 2021
IN CA/8074/2021 IN SAST/12581/2021

KAMALABAI NANDLAL RATHI
VERSUS
M/S .G. INDUSTRIES DAL MILL

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Advocate for Applicants : Mr. Savale Amit S. .
Advocate for Respondent Nos. 1, 2 & 4 : Mr. Amol Joshi h/f Mr. Devang R.
Deshmukh.

CORAM : MANGESH S. PATIL, J.
DATE : 16.03.2022.

PER COURT :

Though this application has been styled one for setting aside the abatement in view of death of respondent No. 3 with a prayer to condone the delay, in fact she died on 15.11.2016 when the matter was pending before the lower appellate court. Though she was one of the appellants steps were not apparently taken to bring on record her legal representatives.

2. In view of such state of affairs, there is no question of the second appeal being abated and consequently any request being made to set aside the abatement much less with a prayer to condone the delay.

3. Having pointed out such a scenario, the learned advocate Mr. Savale for the appellant seeks leave to withdraw the application and instead prays for carrying out necessary amendment in the appeal memo reciting aforementioned circumstances.

4. The request is accepted. The application is disposed of. Necessary amendment to be carried in the delay condonation application as well as second appeal within two weeks. After such amendment is carried out, issue

notices to the legal representatives of the respondent No. 3 in delay condonation application as well as in second appeal, returnable within six weeks from today.

(MANGESH S. PATIL, J.)

mkd/-