

R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 13671 OF 2022

Arun Gyanoba Diwate & Anr.

.. Petitioners

Versus

Shankar Ramchandra Diwate & Ors.

.. Respondents

-
- Mr. Satish K. Kumbhar for Petitioners
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CORAM : MILIND N. JADHAV, J.

DATE : NOVEMBER 30, 2022

P.C.:

- 1.** Heard.
- 2.** Perused the impugned order dated 17.06.2022 passed below Exhibits 80 and 82.
- 3.** Petitioners filed Application dated 18.04.2022 for bringing the legal heirs of deceased Defendant No. 7 – Bhimrao Pandurang Diwate on record of the suit. It was stated that Bhimrao P. Diwate expired on 02.06.2020. However, when the Application was filed, the Petitioners did not have copy of the death certificate at the relevant time. On that ground, learned Trial Court had dismissed the Application filed by the Petitioners. That apart, after the application came to be filed on 18.04.2022, obviously there was a delay of about 20 months in filing the Application and therefore, the Trial Court also held the Petitioners liable for delay and on that ground also, the Application came to be dismissed.

4. Today, Mr. Kumbhar, learned Advocate for Petitioners has tendered across the bar a copy of the death certificate of Bhimrao Pandurang Diwate issued by the Administrative Officer, Sangli Miraj Kupwad Municipal Corporation. The same is taken on record and marked "X" for identification.

5. The reason attributable to the delay was due to Covid-19 lockdown period for which orders in Suo Motu Writ Petition were passed by the Supreme Court in respect of limitation. Considering that benefit being available to the Petitioners during the said Covid lockdown, the delay attributable would be negligible.

6. Mr. Kumbhar submitted that he has not calculated the exact period of delay, however looking at the aforementioned timeline, the delay, if any, deserves to be condoned for the reasons stated herein above. Further the copy of death certificate is also furnished by Petitioners.

7. In view of the above, the impugned order dated 17.06.2022 is set aside. Learned trial Court shall permit the Petitioners to implead the legal heirs of deceased Defendant No. 7 as party Defendants in place of original Defendant No. 7. For the purpose of seeking directions, Petitioners shall appear before the learned Trial Court on 07.12.2022 at 12:00 noon.

8. Writ Petition is disposed of in the above terms.

[MILIND N. JADHAV, J.]