

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO.18021 OF 2022
IN
FIRST APPEAL NO.283 OF 1994**

Smt. Nirmala Arvind Merchant
(deceased) through LRs
1A Narendra A. Merchant and
and Ors.

...Applicants

Versus

Municipal Corporation of Greater
Mumbai and Ors.

...Respondents

...

Mr. Amit Shroff i/b. M/s. Harish Shroff and Co. for the Applicants.
Mr. P.B. Gujar for Respondent No.2B and 3A in FA/283/1994 and
Respondent No.2c-1 in FA/284/1994.

Mr. Santosh Parad for Respondent -MCGM.

Mr. Jog Singh with Ms Ragini Singh and Pooja Pandey i/b. Ms Ragini
Singh and Associates for Respondent nos.2A-1 to 2A-4 in
IA/18022/2022 and for Respondent Nos.1A to 1D in IA/18025/2022.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 14th SEPTEMBER, 2022.

P. C. :-

1. By this application, the Applicant has sought to condone the delay, set aside abatement and to bring on record the legal representatives of the deceased Respondent No.2B. The records reveal that Respondent No.2B had expired in the year-2001.

2. It is stated that original records were not traceable and

the records had to be reconstructed. Learned counsel for the Appellant states that Appellant was not aware about the matter and that the Appellant was neither present nor represented by any Advocate on the date of the order i.e. 23/01/2012, which records that the appeal stands abated as against Respondent No.2. It is stated that the Appellant learnt about the death of 2B only after engaging a new counsel.

3. Considering the above facts and circumstances, the delay is condoned. The abatement is set aside and the legal representatives of deceased Respondent No.2B are ordered to be brought on record. Cause title be amended within a period of two weeks.

4. The Application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)