

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

**CIVIL APPLICATION (CAS) NO. 1195/2022**

**WITH**

**CIVIL APPLICATION (CAS) NO. 1196/2022**

**IN**

**SECOND APPEAL NO.223/2012**

Ashok S/o Pandurangji Totewar

Vs.

Mukesh S/o Pandurangji Totewar and another

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Office Notes, Office Memoranda of Coram,  
appearances, Court's orders or directions  
and Registrar's orders

Court's or Judge's orders

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Ms Mallika Babhulkar, Advocate h/f Shri P.v. Bhoyar, Advocate for respondent Nos. 1 & 2

**CORAM : SMT. M.S. JAWALKAR, J.**

**DATE : 09/12/2022**

Present applications are filed for condonation of delay in filing application for permission for bringing legal representatives of appellant on record. It is submitted that the sole appellant expired on 21/12/2020. The legal representatives of deceased appellant were not aware that their names has to be brought on record. They approached in the month of July, 2022 by filing the present application. There is 510 days delay in filing application.

2. The applications are opposed by the Counsel for respondents as reasons stated in the application are not satisfactory.

3. The suit is for partition, it will not abate. The right to sue survives. The application is supported by affidavit and death certificate. As such application is allowed. Delay in filing applications for setting aside abatement and bringing legal representatives is hereby condoned. Permission is granted to the proposed legal representatives of appellant to substitute their names in place of appellant.

4. Necessary amendment to be carried out within a week.

5. The applications are disposed of.

(SMT. M.S. JAWALKAR, J.)