

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

**CIVIL APPLICATION NO.1777 OF 2023
IN
SECOND APPEAL NO.342 OF 2012**

**ASHROFODDIN GAYASODDIN SHAIKH
VERSUS
SHAIKH MOHIYODDIN RIYASODDIN THROUGH LRS. IMTIYAJ
MOHIODDIN SHAIKH AND ORS.**

...
Advocate for Applicant : Mr. P. G. Patil and Mr. K. C. Khanapure
Advocate for Respondent Nos.2 and 3: Mr. S. S. Kulkarni
...

CORAM : S. G. CHAPALGAONKAR, J.

DATE : 22.06.2023

PER COURT :

1. By this application, the applicant is seeking to condone the delay of 362 days caused in filing the application for bringing on record the legal heirs of deceased respondent no.4 and also for setting aside the abatement order.
2. The learned Advocate appearing for the applicant invited attention of this Court to the pleadings in application and particularly in Paragraph Nos.2 and 3 of application to contend that, the appellant got knowledge regarding death of respondent no.4 only when respondent nos.2 and 3 given such intimation in Regular Darkhast pending before the Executing Court at Jalna.
3. The learned Advocate appearing for the respondent nos.2 and 3 do not controvert the statement made in the application.

4. Considering the submissions and pleadings in the application, case is made out to condone the delay and to allow the application. Hence, the following order:

ORDER

(i) Civil Application is allowed in terms of prayer clauses – ‘**B**’ and ‘**B-1**’.

(ii) Amendment to be carried out within a period of two weeks from today.

5. Civil Application is disposed of accordingly.

(S. G. CHAPALGAONKAR, J.)

Sameer