

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

**CIVIL APPLICATION NO.4878 OF 2013
IN SA/481/2011**

**HARISCHANDRA NIVRUTI RATHODE AND OTHERS
VERSUS
BALAJI VYANKATRAO RATHODE**

Ms. Harsha R. Lomate, Advocate h/f Mr. V. D. Salunke, Advocate for the applicants
Mr. S. B. Choudhari, Advocate for respondent

CORAM : R. M. JOSHI, J.

DATE : 23rd MARCH, 2023

PER COURT :-

1. Learned counsel Mr. Choudhari states that he has instructions to appear on behalf of respondent in second appeal.
2. This application is filed for condition of delay caused in restoration of Second Appeal No. 481/2011 and Civil Application No. 11172/2011.
3. Perusal of the application shows that leaned counsel for the appellant unfortunately died on 01/02/2013, after prolong illness "Neurological disorder".
4. In view of this Court unfortunate death of the counsel for the appellant is sufficient reason for not preferring application for restoration of second appeal and civil application in time. No malafides are seen not making application within time.

5. Hence application stands allowed in terms of prayer clause 'B' and 'D'.

6. Second Appeal No. 481/2011 and Civil Application No. 11172/2011 be restored at the stage of its dismissal.

(R. M. JOSHI, J.)

ssp