

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

**CIVIL APPLICATION NO. 5484 OF 2022
IN SAST/8834/2022**

Yadav Dada Gaikwad (Died)

Through legal heirs

Raghunath Yadav Gaikwad (Died)

Through legal heirs

Prakash Raghunath Gaikwad

.. Applicants

Versus

Murlidhar Madhav Gaikwad and others

.. Respondents

Mr. Manoj R. Khutwad, Advocate for the Applicants.

Mr. Sachin S. Kotkar, Advocate for Respondent Nos. 1 and 2.

CORAM : KISHORE C. SANT, J.

DATED : 28th NOVEMBER, 2023.

P. C. :-

. Heard learned advocates for the parties.

2. This application is for condonation of delay of 826 days caused in filing second appeal. The present applicant is grandson of original defendant No. 13. It is stated that, the applicant had no knowledge of filing of the suit and of the order passed in the suit as it was abated against defendant No. 13. Even in the appeal his grandfather was shown as a party, but though he was dead his legal heirs were not brought on record in the appeal. The parties entered into compromise

and thus, right of the present applicant is affected as both the orders passed in absence of defendant No. 13.

3. The application is vehemently opposed by the respondents stating that no relief was prayed against defendant No. 13 in the suit and therefore, there is no question of the present applicant being aggrieved by the orders passed by the Trial Court and Appellate Court.

4. Since the matter was already abated against defendant No. 13 and considering the reasons this Court finds that, delay deserves to be condoned.

5. Thus, the civil application is allowed. Delay is condoned.

6. The civil application stands disposed off.

(KISHORE C. SANT, J.)

PS.B.