

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

WRIT PETITION NO.10178 OF 2023

**SACHIN VISHWANATHAPPA KAPUSKARI
VERSUS
SUNIL DIGAMBAR BELE**

...
Advocate for Petitioner : Mr. Ravindra Vitthal Gore

...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 18th AUGUST, 2023

PER COURT :

1. Leave granted to correct the prayer clause.
2. Petitioner is aggrieved by the order dated 24/02/2023, passed by learned Ad-hoc District Judge-1, Basmathnagar, below Exhibit-10 in R.C.A. No.20/2017, thereby condoning the delay caused for bringing legal representatives of appellant Premilabai on record.
3. It is the contention of petitioner that all the legal heirs of appellant Premilabai are not brought on record and the application was filed by respondent/G.P.A. holder of Premilabai. Therefore, the appellate Court has erred in allowing the application and condoning the delay.
4. The said argument is devoid of merit for the reason that G.P.A. holder/respondent is son of the deceased Premilabai and he

came before the Court with contention that he is owner of the suit land which was given to him in partition.

5. Regular Civil Suit No.95/2008 was filed by the deceased Premilabai for recovery of possession of encroached portion of 6 R land, claiming that defendant is the adjoining land owner and he made encroachment over 6 R land. Since the suit is for recovery of possession and not for declaration of ownership or conferment of title, the appellate Court is justified in condoning the delay and allowing the application for bringing legal representatives of deceased Premilabai on record.

6. No jurisdictional error or error of law is committed by the appellate Court while passing the impugned order. There is no illegality or perversity in the order impugned in present petition. No case is made out by the petitioner to interfere in exercise of extraordinary writ jurisdiction. Writ petition being devoid of merit is dismissed.

(NITIN B. SURYAWANSHI, J.)