

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

CIVIL APPLICATION NO. 6699 OF 2023 IN SA/625/1992

SHANKAR SHIVRAM GUNJALE DIED LRS. DURGABAI AND
OTHERS
VERSUS
DHANSING RAOJI RATHOD and OTHERS.

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Advocate for Applicants : Ms.P. V. Langhe h/f V.R. Langhe
Advocate for Respondents : Mr. V.D. Khivesara h/f A.S. Bajaj for
R-1 to 5, Mr. K.R. Yadav h/f S.S. Shinde For R/6.

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CORAM : S. G. CHAPALGAONKAR, J.
Dated: August 02, 2023

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PER COURT :-

1. Leave to amend the application and add prayer for setting aside the abatement. Amendment to be carried out forthwith.
2. By this application, the applicants seeks to bring on record legal representatives of deceased respondent no.6 Bhausing Gunjale. The application is filed with prayer to set aside the abatement and also to condone the delay of 366 days caused in filing the application.
3. The contention of the applicants is that, appellant nos.1 and 2 expired in the year 2005 and 2018 respectively. The appeal was admitted in the year 1994 and it was pending in dormant condition. There was communication gap between them and advocates. Delay caused in filing the present application is not intentional. Valuable rights regarding

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immovable property are involved. It is, therefore, prayed that the application be allowed by condoning the delay.

4. Respondents opposed the application on the ground that there is inordinate delay and explanation sought to be offered is not sufficient.

5. Having considered the submissions advanced, it is apparent that original appellant nos.1 and 2 had expired. When the matter was posted for final hearing in the year 2022 this Court issued notices to the parties. There is nothing to show that the appellants had knowledge about death of respondent no.6. In that view of the matter, the case is made out to allow the application. Application is allowed in terms of prayer clause "A-1, B and C". Application is disposed off. Amendment to be carried out within a period of two weeks from today.

(S. G. CHAPALGAONKAR, J.)

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