

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

**CIVIL APPLICATION NO. 7893 OF 2022
IN
REJECTED CASE NO. 566 OF 2018
IN
FIRST APPEAL STAMP NO. 29000 OF 2016
WITH
CIVIL APPLICATION NO. 297 OF 2019**

Dnyaneshwar Asaram Surase
Since deceased through his L.Rs.
Jijabai and others .. Applicants

Versus

The State of Maharashtra and others .. Respondents

Shri Shubham D. Jayabhar, Advocate h/f Shri Dattatraya R.
Jayabhar, Advocate for the Applicants.
Shri P. K. Lakhotiya, A.G.P. for the Respondent Nos. 1 and 2.

**CORAM : S. G. CHAPALGAONKAR, J.
DATE : 07TH JUNE, 2023.**

FINAL ORDER :

. Heard.

2. This civil application is filed in Civil Application No. 297 of 2019 in First Appeal Stamp No. 29000 of 2016.

3. Mr. Jayabhar, learned advocate appearing for the applicants seeks leave to correct the cause title of the civil application. Leave granted. Amendment to be carried out

forthwith.

4. Mr. Jayabhar, learned advocate would submit that the First Appeal Stamp No. 29000 of 2016 was filed before this Court along with application for condonation of delay. This Court was pleased to allow the application subject to filing of undertaking by the applicants that they shall not claim interest on the amount for delayed period. Unfortunately such undertaking could not be filed within the specified time. Resultantly for non fulfillment of condition appeal along with civil application stood dismissed.

5. In that contingency, original applicant Dnyaneshwar Asaram Surase had filed Civil Application No. 297 of 2019 for restoration of the appeal. Unfortunately, during pendency of said application he died. Therefore, present application is filed by the legal heirs in Dnyaneshwar Asaram Surase to bring them on record as legal heirs of the Civil Application No. 297 of 2019 as well as First Appeal Stamp No. 29000 of 2016. He would submit that Dnyaneshwar Asaram Surase died on 19.06.2021.

6. Considering period of Covid, present application is filed in time.

7. Learned advocate appearing for the respondents does not dispute the aforesaid position.

8. Considering the submissions advanced and for the reasons as stated in the application, the civil application is allowed. The applicant Nos. 1A to 1D are permitted to be taken on record of Civil Application No. 297 of 2019 and First Appeal Stamp No. 29000 of 2016. Amendment to be carried out within a period of two (02) weeks from today. The civil application is disposed of.

[S. G. CHAPALGAONKAR, J.]

bsb/June23