

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

38 CA NO.7174/2022 IN SA/173/1992

YESHWANT SITARAM BADNE and OTHERS.
VERSUS
KASHINATH YOGAJI GAIKWAD.

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Advocate for Appellants : Mr. Vivek Bhavthankar

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CORAM : S. G. CHAPALGAONKAR, J.

Dated : August 17, 2023

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PER COURT :-

1. By this application, the applicants seek permission to bring on record the L.Rs. of deceased respondent no.2 Kisan Laxman Gaikwad, who expired on 1.3.2012.
2. Notice of this application was issued to proposed L.Rs. of respondent no.2. They are served with the notice, however, contents of this civil application are not controverted by filing affidavit in reply.
3. Mr. Bhavthankar, leaned counsel appearing for the applicants submits that the applicants were not having knowledge about death of respondent no.2. Further, advocate representing them Mr. Haribhau Mundhe expired in March, 2021. As soon as they got knowledge about death of respondent no.2, they collected the details about legal heirs and present application is moved.

4. It is trite that in the matter of bringing L.Rs. of respondent on record, 'term sufficient' cause will have to be liberally construed unless it is shown that delay caused is deliberate intentional or on account of gross negligence. Apparently, the applicants have not derived any advantage by making delay. There is no contest as regards averments in the application that the applicants had no knowledge about death of respondent no.2. Further it is a matter of record that advocate representing for them expired in the year 2021.

5. considering all these aspects, case is made out to condone the delay and set aside the abatement and also permit the applicants to bring on record respondent nos.2/1 to 2/3 as legal heirs of deceased respondent no.2 Kisan Laxman Gaikwad. Resultantly, the application succeeds. Hence, the order.

ORDER

- i. The application is allowed in terms of prayer clause "A".
- ii. Application is disposed off.
- iii. Civil application nos.9735 and 9736 are adjourned after four weeks.
- iv. Second Appeal is also adjourned after four weeks.

(S. G. CHAPALGAONKAR, J.)

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