

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

**23 CIVIL APPLICATION NO.9695 OF 2022
IN SAST/10668/2018**

**SHASHIKALA BHARAT BABAR AND ANOTHER
VERSUS
VISHWANATH SANTOSH GAMBHIRE DIED LRS. KAUSALYA
AND OTHERS**

...
Advocate for Applicants : Mr.Ingale Vivekanand V.
Advocate for Respondent No. 8 : Mr.M.S. Gunjkar and Mr.B.V.
Thombre

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CORAM : KISHORE C. SANT, J.

DATE : 08.11.2023.

PER COURT :

1. Heard the Civil Application.
2. At the out set the learned Advocate for the applicants seeks leave to add prayer to the effect of setting aside the abatement order. Leave granted. Amendment be carried out forthwith.
3. This application is filed for bringing the legal representatives of deceased Kausalya Vishwanath Gambhire and Arjun Vishwanath Gambhire, who are the mother and son. They are survived by the legal representatives of the deceased as

given in paragraph No. 3 of the Civil Application as well in the title clause. The deceased Vishwanath died on 12.12.2016 whereas, Arjun died on 06.07.2018.

4. About the delay it is stated that the applicants could not get immediately any information about the death of the deceased, since the relations with the relatives are strained nobody intimated about the death of the deceased. After getting intimation of the death, they tried to collect the death certificate from Grampanchyat. However, they could not get the same immediately. It is thus prayed that delay deserves to be condoned.

5. The learned Advocate for the respondents vehemently opposes the application stating that no sufficient reasons are assigned to condone the delay. The reasons stated are imaginary. The death certificate shows that the death took place on 16.12.2019, whereas an application is filed on 28.04.2022, which clearly shows that the applicant in fact had knowledge of the death at least in the month of December, 2919 and prayed for rejection of the application stating that the applicant has not given plausible reason at least from

16.12.2019 till April, 2022.

6. Considering the above, this Court finds that this application is only for setting aside the abatement order and for bringing the legal representatives on record. No prejudice is thus caused to any party. The respondents can be compensated by imposing some costs on the applicants.

7. Considering above, the Civil Application is allowed and the delay is condoned. The abatement is set aside. The applicants/appellants to bring on record legal representatives as shown in paragraph No. 3 of the application. The order is subject to costs of Rs. 2,000/- (Rs.Two Thousand), to be paid to the High Court Legal Aid Sub Committee, Aurangabad, within a period of 4 weeks from today.

**(KISHORE C. SANT)
JUDGE**

mahajansb/