

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

942 CIVIL APPLICATION NO.9831 OF 2019
IN SA/453/1993 WITH CA/9829/2019 IN SA/453/1993 WITH
CA/9830/2019 IN SA/453/1993 WITH CA/14908/2015 IN
SA/453/1993

VITHAL BALA KHALKAR LRS BALASAHEB AND OTHERS
VERSUS
ASHOK RAMBHAU KHALKAR and OTHERS.

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Advocates for Applicants : Mr. Sanjay S. Dudhane h/f
Mr. Dhorde Vikram R., Mr. S. S. Wagh, respectively.
Advocate for Respondent Nos.1, 2A, 2, 3 : Mr. S. T. Shelke.
Adv. for Respondent Nos.2, 3 : Mr. P. B. Shirsath-Discharged.

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CORAM : S. G. MEHARE, J.
DATE : 05.09.2023

PER COURT :-

In Civil Application No.9829 of 2019

1. The legal heirs of applicant No.1B Tulshiram Vitthal Khalkar applied for bringing them on record. There was delay of 53 days in bringing them on record.
2. Learned counsel for respondent Nos.1 and 2A stated that the applicants were not diligent. The reasons for delay is also not explained.

3. Perused the application. There is no inordinate delay in bringing the legal heirs on record. The reasons mentioned in the application for delay are possible.

4. Hence, the Civil Application is allowed.

5. Delay of 53 days to bring the legal heirs on record is condoned. The application for bringing the proposed legal heirs of applicant No.1-B Tulshiram is allowed.

6. Necessary amendment be carried out forthwith.

In Civil Application No.9830 of 2019

7. Heard the learned counsel for the applicants and learned counsel for the respondents.

8. There is delay of 426 days in bringing the legal heirs of appellant No.1-E.

9. Learned counsel for the applicants would submit that the appellant No.1-B namely Tulshiram Vitthal Khalkar was looking after the appeal. However, he was not in contact. He also died on 01.03.2019. Then, his legal heirs contacted him. Thereafter, these applications have been moved. Hence, there was no deliberate delay in bringing them on record.

10. Learned counsel for the contesting respondents named above would submit that the delay is not properly explained.

There was negligence on the part of the appellants.

11. The reasons for delay are possible. Hence, to protect the interest of the litigants, delay is liable to be condoned.

12. Civil Application is allowed.

13. The delay in bringing legal heirs of appellant No.1E Yamunabai is condoned. Legal heirs be brought on record forthwith. Necessary amendment be carried out forthwith.

14. Learned counsel Mr. P. B. Shirsath appearing for original respondent Nos.2 and 3. His appearance be discharged as the legal heirs of original respondent Nos.2 and 3 are represented by advocate Mr. Shelke.

In Civil Application No.9831 of 2019

15. Learned counsel for the applicants would submit that the legal heirs of respondent No.2A are already on record. Hence, it is not necessary to bring them on record. The formal amendment is to be required.

16. The civil application is allowed.

17. The formal amendment be carried out forthwith.

In Civil Application No.14908 of 2015

18. This is an application filed by the legal heirs of one Bhausahab, who was the legal heir of appellant Vitthal Bala Khalkar.

19. After the death of Vitthal, his legal heirs were brought on record. However, record does not reveal that the Bhausahab was brought as legal heir. Hence, his legal heirs have moved this application to bring them on record. Learned counsel for the applicants has no instructions.

20. Hence, time granted to him to file a reply.

21. Stand over to 07.10.2023.

(S. G. MEHARE, J.)

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vmk/-