

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 2287 OF 2014
IN
FIRST APPEAL NO. 159 OF 1994**

State of Maharashtra	...Applicant
Versus	
Vithoba Maruti Maharnawar (deceased) thr. LRs Mr. Machindra Vithoba Maharnawar and Ors.	...Respondents

Ms. Tanaya Goswami, AGP for the Applicant.
None for the Respondents.

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**CORAM : M.M.SATHAYE J.
DATE : 1st DECEMBER 2023**

PC. :

1. Heard Ms. Goswami, learned AGP for the Applicant/State.
None for the Respondents.

2. This is an application by the State for bringing legal heirs of sole Respondent on record and for setting aside abatement of the appeal. There is delay of 10 years and 19 days in filing the present application. From the averments in the application it appears that in September 2013, the Applicant/State learnt that sole Respondent has expired and under letter dated 16.01.2014, the date of death (01.10.2003) was communicated. Be that as it may.

3. Office note shows that this application itself is dismissed as against proposed Respondent Nos. 1 and 3 and therefore the impugned Judgment and Order of the Reference Court passed in L.A.R.No. 106 of 1089 is confirmed vis-a-vis the said Respondent Nos. 1 & 3. No application is filed by the State till date for settling aside this abatement of this application for Respondent Nos. 1 and 3. Though the application is served upon the proposed Respondent Nos. 2 and 4 and therefore, even if this application is allowed and only Respondent Nos.2 and 4 are brought on record, the appeal will remain abated as against Respondent Nos. 1 and 3. In such situation, there is likelihood of conflicting orders being passed so far as 2 legal heirs of original Respondent/claimant are concerned. In that view of the matter, no fruitful purpose will be served by condoning such large delay and setting aside the abatement of the appeal only to the extent of Respondent Nos. 2 and 4.

4. In the aforesaid facts and circumstances, the present application is rejected.

[M.M.SATHAYE,J.]