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

CIVIL REVISION APPLICATION NO.643 OF 2023

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Ganpat Jaguguru (Jagupuri) Gosavi
Since Deceased Through Legal Heirs &
Ors.

... Applicants

V/s.

Hari Gulab Gosavi Since Deceased
Through Legal Heirs & Ors.

... Respondents

Mr. R.D. Phade for the applicants.

Mr. Sarang S. Aradhye with Ms. Gauri Velankar with
Mr. Shantanu Gurav i/by Mr. Sarang S. Aradhye for
respondent No.1A, 3 and 4.

CORAM : AMIT BORKAR, J.

DATED : OCTOBER 31, 2023

P.C.:

1. The applicants-original plaintiffs are challenging order passed by the lower Appellate Court condoning delay in filing application to bring legal representatives of appellant No.1, respondent No.1, respondent No.7 and respondent No.8 on record. It appears that the applicants had filed Regular Civil Suit No.253 of 2012 seeking declaration of ownership of suit properties and injunction restraining defendants from creating third party rights.

2. By the judgment and decree dated 20th December 2017, the suit was decreed. The defendants filed Regular Civil Appeal No.4

of 2018. During pendency of the appeal, appellant No.1 died on 6th March 2019, respondent No.1 died on 30th June 2022, respondent No.8 died on 22nd September 2021 and respondent No.7 died on 18th January 2023.

3. The respondents filed a pursis on 5th May 2022 informing about the death of the appellant. On 28th March 2022, respondents filed pursis informing about death of respondent No.8. On 30th January 2023, the respondents filed a pursis informing appellants about the death of respondent No.7.

4. On 30th January 2023, respondents filed applications for bringing legal representatives of the appellants and respondents on record. It is stated that they could not file application due to COVID-19 pandemic and for the lack of detailed information. Apart from the said explanation, it is stated that due to illiteracy of the appellants about the provisions of law and since valuable rights of immovable properties are involved, delay in bringing legal representatives on record deserves to be condoned.

5. The applicants objected for the grant of condonation of delay on the ground that the appellant No.1 and other appellants belong to same village and that appellants were aware about the death of other respondents.

6. The Appellate Court, by the impugned order, condoned the delay on payment of costs of Rs.500/- in each application.

7. The Appellate Court found the explanation furnished by the respondents as sufficient for condoning the delay. It is well settled that while condoning delay for bringing legal representatives on

record, the Court must adopt liberal approach. It is neither the case of the applicants that the delay was caused due to dilatory tactics adopted by the respondents nor it is the case of the appellants there is any mala fide reason for causing delay.

8. Moreover, the lower Appellate Court has exercised its discretion positively. In case of positive exercise of jurisdiction in relation to condonation of delay, the superior Court's power is restricted to consider as to whether the impugned order is perverse or not. The lower Appellate Court having accepted the explanation as satisfactory, in my opinion, considering valuable rights of the parties involved in immovable properties, no interference under Article 227 of the Constitution of India is made out.

9. The civil revision application is dismissed. No costs.

10. It is made clear that the observations made in the order shall not affect the Appellate Court while deciding the appeal on merits.

(AMIT BORKAR, J.)