

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

**SECOND APPEAL NO. 598 OF 1999
WITH
CIVIL APPLICATION NO. 116 OF 2015
WITH
INTERIM APPLICATION NO. 15957 OF 2023
WITH
INTERIM APPLICATION NO. 15958 OF 2023
IN
SECOND APPEAL NO. 598 OF 1999**

Narayan Ganpati Saste (since
deceased through legal heirs) :
Sahebrao Narayan Saste and ors. Appellants
v/s.

Banubai Baburao Saste (since
deceased through legal heirs) :
Yashwant Baburao Saste and anr. Respondents

Mr. R.S. Apte, Sr. counsel i/b. Mr. S.S. Ambedkar for the Appellants.
Mr. Anil Anturkar, Sr. counsel a/w. Mr. Niranjana Bhavake and
Mr. I.S. Thakur i/b. Bhavake and Associates for the Respondents.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 31st OCTOBER, 2023.

P. C. :-

ORDER IN INTERIM APPLICATION NO. 15957 OF 2023 :-

. By this Application, the Applicants have sought to direct the Respondents to accept costs of Rs.25,000/- imposed by order dated 21/04/2017 while restoring the Appeal.

2. Mr. Anturkar, learned senior counsel opposes the application mainly on the ground that the costs were to be paid within a period of six weeks

and that there is inordinate delay in making the application. The records reveal that by order dated 22/06/2017, the Applicant had forwarded a cheque of Rs.25,000/- towards costs. It was brought to the notice of the Appellants that drawee has expired. Hence, the Appellant issued another cheque dated 23/01/2019 in the name of Respondent No.1a – Ratan Yashwant Saste. It is stated that the said cheque was not accepted.

3. The aforesaid facts indicate that the Applicants were willing to pay the costs though there was some delay in making the payment. Considering this aspect and considering the fact that the Respondent is not ready to accept the costs, the Applicants are directed to deposit the costs of Rs.25,000/- before this Court within a period of one week.

4. Interim Application stands disposed of.

ORDER IN INTERIM APPLICATION NO. 15958 OF 2023 :-

5. By this Application, the Applicants have sought to condone the delay, set-aside the abatement and to bring on record the legal representatives of deceased Respondent No.1(b).

6. Having considered the reasons stated in the application, which in my considered view, constitute sufficient cause, the delay is condoned. Abatement is set-aside. Legal representatives of deceased Respondent No.1(b) are ordered to be brought on record. Cause title be amended

within a period of one week.

7. Interim Application stands disposed of.

ORDER IN CIVIL APPLICATION (ST.) NO. 5056 OF 2014 :-

8. Not on board. Upon being mentioned, taken on board.

9. By this Application, the Applicants have sought to condone the delay, set-aside the abatement and to bring on record the legal representatives of deceased Respondent No.1. Mr. I.S. Thakur, learned counsel waives service on behalf of the proposed legal representatives of the deceased Respondent No.1.

10. Having considered the reasons stated in the application, the delay is condoned. Abatement is set-aside and the legal representatives of deceased Respondent No.1 are ordered to be brought on record. Cause title be amended within a period of one week.

11. Civil Application stands disposed of.

ORDER IN SECOND APPEAL NO. 598 OF 1999 :-

12. Appeal be listed for final hearing on **07/11/2023**.

PREETI
HEERO
JAYANI

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(SMT. ANUJA PRABHUDESSAI, J.)