

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

INTERIM APPLICATION NO. 2334 OF 2023

IN

FIRST APPEAL NO. 624 OF 2017

Manju Narendra Mathur & Ors.

...Applicants

Versus

Nilesh P. Kothari

...Respondent

WITH

FIRST APPEAL NO. 624 OF 2017

R. A. Industries

...Appellant

Versus

Nilesh P. Kothari

...Respondent

.....

Mr. S. S. Redekar for the Applicants/Appellant.

Mr. Suraj N. Naik i/by Mr. R. D. Suryawanshi for the Respondent.

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CORAM : PRITHVIRAJ K. CHAVAN, J.

DATED : 21st MARCH, 2023.

P.C.

1. Sole proprietor of the Appellant-Industry namely Narendra Prakash Mathur has expired on 2nd November, 2021, leaving behind the Applicant Nos.1, 2 and 3, Legal Representatives of the deceased.

2. Heard.

3. Learned Counsel for the Applicants submits that due to the old age and ailment, the deceased died and as the Legal Representatives were not aware about the procedure for bringing the Legal Representatives on record and, therefore, a delay of 1 year 20 days has caused in making an Application. Learned Counsel requests to

condone the delay and bring the Legal Representatives of the deceased on record.

4. Learned Counsel for the Respondent has no objection.

5. The delay appears to be *bona-fide* and unintentional. Sufficient cause has been shown. As such, the abatement is set aside and the Application is allowed in terms of prayer clause (b).

6. Applicant shall effect amendment in the Memo of Appeal forthwith.

7. After effecting the amendment, in view of the Consent Terms entered into between the parties before the City Civil Court in S.C. Suit No.2297 of 2014, learned Counsel seeks to withdraw the Appeal.

8. As such, after effecting the amendment, in view of the Consent Terms, the Appeal shall stand disposed off as withdrawn.

9. Pending Applications, if any, shall also be disposed off.

10. Liberty to the learned Counsel for the Applicants to withdraw the amount deposited in this Court in view of receipt at Exh.A (Page 7) in terms of Consent Terms referred hereinabove.

11. Appeal stands disposed off in the aforesaid terms.

[PRITHVIRAJ K. CHAVAN, J.]