



THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CIVIL APPLICATION (CAS) NOS. 758/2023, 1274/2023 AND 759/2023
IN
SECOND APPEAL NO. 193 OF 2006

MAMRAJ JAGANNATH KHANDELWAL AND ANR.

...**VERSUS**...

RAJENDRA JAIKUMAR JAIN AND ORS.

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Shri/Smt. V.A. Lohiya, Advocate h/f. Shri D.R. Khapre, Advocate for appellants/applicants.

Shri J.J.Chandurkar, Advocate for respondent nos. 1 to 4, 6, 7, 9 and 10.

CORAM : SMT. M. S. JAWALKAR,J.

DATE : 03rd OCTOBER, 2023

CIVIL APPLICATION (CAS) NOS. 758/2023

The present application is filed for condonation of delay in filing the application for bringing legal heirs of appellant no. 1(ii) on record.

2. The appellant no. 1(ii) has died on 01/07/2018. There is delay of around four years and six months in filing the application for bringing the legal heirs of appellant no. 1(ii) on record. The reason put forth is about lack of communication between the counsel and the appellants.

3. The learned counsel for the respondents vehemently opposed the application. However, considering the fact, as the right to sue survives, the application is allowed, subject to costs of Rs. 4,000/- to be paid to the respondents within a period of three weeks.

4. After payment of costs, the delay in filing application for bringing the legal heirs of appellant no. 1(ii) shall be treated as condoned.

5. Accordingly, the application stands disposed of.

CIVIL APPLICATION (CAS) NO. 1274 OF 2023

The present application is filed for setting aside abatement order against appellant no. 1(ii).

2. The abatement occurred due to lack of communication between the counsel and the appellants. There is no intentional or deliberate reason for non-applying for setting aside abatement order.

3. The learned counsel for the respondents opposed the application. However, considering the fact that the right to sue survives, the application is allowed, subject to deposit of costs as directed by this Court in CAS No. 758/2023. The abatement against appellant no. 1(ii) is hereby set aside.

4. Accordingly, the application stands disposed of.

CIVIL APPLICATION (CAS) NO. 759 OF 2023

The present application is filed for bringing the legal heirs of appellant no. 1(ii) on record, who has expired on 01/07/2018.

2. The names of legal heirs of appellant no. 1(ii), which are to be bring on record, are given in para 3 of the application.

3. The learned counsel for the respondents vehemently opposed the application. However, considering the reasons stated in the application, it would be in the interest of justice to bring the

names of legal heirs of the appellant no. 1(ii) on record. The appellants/applicants are permitted to bring the legal heirs of appellant no. 1(ii) on record, as mentioned in para 3 of the application.

4. Necessary amendment to be carried out within a period of three weeks, subject to payment of costs as directed in CAS No. 758/2023.

5. Accordingly, the application stands disposed of.

CIVIL APPLICATION (CAS) NO. 760 OF 2023

The applicants do not want to press this application.

2. Accordingly, the application stands disposed of as not pressed.

(Smt. M.S. Jawalkar, J.)

B.T.Khapekar