

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION (CAF) NO.432 OF 2023
IN
FIRST APPEAL STAMP NO.7540 OF 2020

Vidarbha Irrigation Development Corporation, through its Executive Engineer, Minor
Irrigation Division, Wardha and another

Vs.

Sumanbai Chintamanrao Ingole and another

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

Court's or Judge's orders

Mr. Vinay Dahat, Advocate h/f Mr. J. B. Kasat, Advocate for the appellants.
Mr. C. R. Najbale Advocate for respondent No.1.
Ms. T. Udeshi, AGP for respondent no.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 20/02/2023

1. By this application, the appellants are seeking condonation of delay, setting aside abatement and bringing legal heirs on record under Order 22 Rule 4 of the Code of Civil Procedure.
2. Learned Advocate Mr. Najbale waives notice for proposed legal heirs.
3. As per the contention of the appellants, during the pendency of the appeal the fact of the death of respondent No.1 who died on 26.03.2022 brought to the notice of the appellants as the Pursis was filed by the Counsel. Thereafter, the application was sent to the department for swearing. Therefore, delay of 265 days is caused in bringing the legal heirs on record. Delay is not

intentional one.

4. Learned Advocate Mr. Najbile, as well as learned AGP Ms. Trupti Udeshi, has no objection to condone the delay.

5. In view of that delay is condoned. The abatement order passed against the respondent No.1 is set aside. Appellants are permitted to bring the legal heirs on record.

6. Civil Application No.432 of 2023 is disposed of.

7. Appellants to carry out the necessary amendment within stipulated period.

(URMILA JOSHI-PHALKE, J.)

Sarkate