

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

CIVIL APPLICATION NO.824 OF 2021

IN

FIRST APPEAL NO.616 OF 2016

(VI.D.C. Vs. Trimbak Ganpatrao Kawalkar (dead) thr. L.R's and ors.)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri S. Ingole, Advocate h/f Shri A.B. Patil, Advocate for the
appellant.

Shri A.B. Nakshane, Advocate for respondent Nos.1 and 2.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- MARCH 28, 2023.

Heard.

2. Present application is filed for condonation of delay which is caused in filing the application for bringing legal heirs of respondent No.1(i) on record.

3. As per the contention of the appellant, the fact that respondent No.1(i) - Narayan Ganpat Kawalkar was died on 30/12/2019 and the Pursis was filed on 22/01/2021. After knowledge, present application is filed. There is a delay of 447 days. As the appellant was not aware about the death of respondent No.1(i), therefore, delay is caused. Delay is not intentional one.

4. Shri Nakshane, learned Counsel has no objection for condonation of delay.

5. In view of the reasons mentioned in the application, the delay is condoned.

6. The civil application is disposed of accordingly.

CIVIL APPLICATION NO.823/2021

Heard.

2. Present application of filed for setting aside abatement.

3. As the death of respondent No.1(i) was not known to the appellant, and therefore, he has not taken steps.

4. In view of that the appeal was abated against respondent No.1(i).

5. Considering the reasons mentioned in the application that the appellant was not having knowledge about the death of respondent No.1(i), the abatement order was passed.

6. In view of the reasons mentioned in the application, abatement against respondent No.1(i) is set aside.

7. Civil application is disposed of.

CIVIL APPLICATION NO.825/2021

Heard.

2. This application is filed for bringing legal heirs of respondent No.1(i) on record.

3. Shri Nakshane, learned Counsel waives notice for proposed legal heirs of respondent No.1(i).

4. In view of the reasons mentioned in the application, being the legal heirs are the necessary parties, the application is allowed.

5. The appellant to carry out necessary amendment within stipulated period.

6. Civil application is disposed of.

FIRST APPEAL NO.616 OF 2016

Stand over to two weeks.

(URMILA JOSHI-PHALKE, J.)

**Divya*