

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

CIVIL APPLICATION NO.1066 OF 2023

IN

FIRST APPEAL NO.255 OF 2010

(Smt. Savitrabai w/o Ashok Sahu Vs. Dnyaneshwar s/o Bapurao Irpate and anr.)

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

Court's or Judge's Order

Shri S.S. Ghate, Advocate for the appellant.
Shri A.S. Bhendarkar, Advocate for respondent No.1.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- APRIL 11, 2023.

Heard.

2. This application is for condonation of delay which is caused in filing the application for setting aside abatement and to bring legal heirs of the deceased respondent No.1, on record.

3. As per the contention of the appellant that the appellant is received the knowledge about the death of the respondent No.1 on 20/02/2023. Thereafter the appellant has filed this application. Thus, after the knowledge the application is filed however there is a delay of 284 days for setting aside the abatement.

4. The delay is for justifiable reason and hence it be condoned.

5. Said application is strongly opposed by the learned Counsel for respondent No.1 on the ground that the Pursis is filed on 11/08/2022 informing regarding the

death of the respondent. After filing of the Pursis, no steps are taken by the appellant. Thus, the delay is intentional one and the application deserves to be rejected.

6. Heard both the sides and perused the application.

7. It is apparent that after filing of the Pursis no steps are taken by the appellant to bring the legal heirs of the deceased respondent No.1 on record. The reason appears to be reasonable and just one. While considering the delay application, the liberal approach is to be taken to do the substantial justice and to afford an opportunity to the parties to litigate their cause on merits.

8. In view of that, application is allowed and the delay of 284 days is condoned subject to the costs of Rs.2000/- (Rs. Two thousand). The costs be paid to the High Court Legal Services Sub-Committee, Nagpur.

9. The civil application is disposed of.

CIVIL APPLICATION NO.1065 OF 2023

The application is for setting aside abatement.

2. For the reasons mentioned in the application, the abatement is set aside.

3. Civil application is disposed of.

CIVIL APPLICATION NO.1067 OF 2023

Heard.

2. Issue notice to the proposed legal heirs of respondent No.1, returnable in four weeks.

(URMILA JOSHI-PHALKE, J.)

**Divya*