

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

CIVIL APPLICATION (F) NO.1071 OF 2023

IN
FIRST APPEAL NO.132 OF 2016

[Executive Engineer ..V/s.. Trimbak w/o Ganpatrao Kawalkar and Ors.]

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

Court's or Judge's order

Mr M. A. Kadu, Advocate for Applicant/Appellant.

Mr A. B. Nakshane, Advocate for Respondent No.1.

Ms T. H. Udeshi, AGP for Respondent Nos.2 and 3.

CORAM : URMILA JOSHI-PHALKE, J.

DATE : 25th APRIL, 2023.

. Present application is composite application for condonation of delay of 195 days, bringing the legal heirs of respondent No.1 on record by setting aside the abatement order.

2. The appellant has preferred the instant appeal against the judgment and award passed by the learned Civil Judge Senior Division, Yavatmal in L.A.C. No.552 of 2005 dated 14.06.2012. It is informed that respondent No.1 expired on 11.05.2018, however, the appellant was not having knowledge about the death of respondent No.1, therefore he could not take steps to bring the legal heirs of respondent No.1 on record, and therefore, the delay is caused in preferring the application.

3. In view of the reasons mentioned in the application and as respondents have no objection for the same, the application is allowed and delay of 195 days is condoned, abatement order is set aside and appellant is permitted to bring the legal heirs of respondent No.1 on record.

4. Mr Nakshane, learned Advocate waives notice for

proposed legal heirs.

5. As per the contention of the learned Advocate Mr Nakshane, the Will was executed in favour of Narayan. Now, the said Narayan is also expired and the proposed applicants are the legal heirs of Narayan. They are permitted to bring on record subject to the genuineness of Will executed in favour Narayan. If dispute is raised regarding the genuineness of Will, it will be subject to the result of the disbursal of the amount of compensation, if applicants succeed in the appeal.

6. Civil application is disposed of.

7. Stand over after vacation.

JUDGE