

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

CIVIL APPLICATION (CAF) NO. 395/2023 IN
FIRST APPEAL NO. 1344/2018

Smt. Chhaya Mahesh Agashe And Others **Vs** Pandurang Bhaskar Pofale And Others

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

Court's or Judge's Order

Mr P.R. Agrawal, advocate for the appellants.

Mrs Mrunal Naik, advocate for the respondent Nos. 3.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 28/02/2023.

1. This application is filed for condonation of delay in filing application for bringing the legal representatives on record.
2. It is submitted that, this Court has admitted the appeal on 01/02/2019. Notice issued to the respondent No.2 was returned unserved and thereafter, the appellants came to now about the death of the respondent No.2. Thereafter, appellants could not get information about the legal representatives of the respondent No.2 and therefore, the delay of 1515 days is caused in bringing the legal representatives on record.
3. Learned advocate for the Insurance Company Mrs Mrunal Naik has raised objection that delay is not properly explained. The present appeal is filed by the claimants for enhancement of the compensation. The appellants first time came to know about the death of the respondent No.2, when

notice was unserved with the report that respondent No.2 reported to be dead. Thereafter, appellants has not taken the necessary instructions about the legal representatives, hence delay is caused. Thus, there is sufficient and reasonable cause for condonation of delay. In view of the reasons mentioned in the application, delay of 1515 days is condoned.

4. Abatement order passed against the respondent No.2 is set aside.

Civil application No. 395/2023 is **disposed of**.

Civil Application (CAF) No. 396/2023

The application is for bringing the legal heirs of respondent No. 2 on record.

Issue notice to the proposed legal representatives.

Mrs Mrunal Naik, learned advocate waives service of notice on behalf of respondent No.3.

In view of the reasons mentioned in the application, applicants are permitted to bring the legal representatives of the respondent No.2 on record.

Applicants to carry out the amendment within a stipulated period.

Civil application is disposed of.

JUDGE