

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

CIVIL APPLICATION NO. 465/2023 IN FIRST APPEAL NO. 928/2009

Wamanrao Nathuji Yawale and another
Vs
State of Maha. Thr. Collector, Amravati 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 C.A. Babrekar, counsel for the appellants.
Mr M.A. Kadu, counsel for the respondent No.3.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 28/03/2023.

1. Present application is filed for condonation of delay which is caused in bringing the legal representatives of deceased appellant No.1 on record.
2. Appellants have preferred an appeal against the judgment and award passed by the 3rd Joint Civil Judge, Senior Division, Amravati in LAC No. 659/1999. During the pendency of the appeal, appellant No.1 died on 26/06/2013. However, the appellants have not taken any steps to bring the legal representatives on record. Therefore, delay of 3202 days in bringing the legal heirs on record.
3. The said application is strongly opposed by the respondent No.3 on the ground that the appellant No.1 was the family member of the appellant No.2. Then also, this fact is not brought to the notice of this Court and no steps are taken. He submitted that on waiver of the

interest of the said delayed period, the delay may be condoned.

4. In view of the reasons mentioned in the application and considering the submission made by the learned counsel Mr M.A. Kadu, for the respondent No.3, delay of 3202 days is condoned, subject to that claimants will not be entitled to receive the interest for the said delayed period, if they succeeds in enhancement of the present appeal.

Civil Application is disposed of.

Civil Application (CAF) Nos. 464/2023 and 466/2023

These applications are filed for setting aside the abatement order and bringing legal heirs of appellant No.1 on record.

2. In view of the reasons mentioned in the application that claimants were not aware that legal heirs are to be brought on record after death of the appellant. Application is not filed within time. Considering the same, the abatement order is set aside.

3. Appellant No.2 is permitted to bring the legal representatives on record.

Civil Application Nos. 464/2023 and 466/2023 is disposed of.

4. Appellants to carry out the amendment within stipulated period.