

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

CIVIL APPLICATION NO.12 OF 2023

IN

FIRST APPEAL NO.77 OF 2020

(Executive Engineer, Bembla Dam Project Canal Division, Yavatmal Vs. Keshav Mahadev Onkar and ors.)

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

Court's or Judge's Order

Ms I.P. Khisti, Advocate for the appellant.
Ms A.N. Kashikar, Advocate h/f Shri P.M. Pande, Advocate for respondent No.1.
Ms T.H. Udeshi, AGP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- MARCH 01, 2023.

Heard.

2. This application is filed by the appellant for condonation of delay of 205 days which is caused in bringing legal representatives on record and for setting aside abatement.

3. As per the contention of the appellant, respondent No.1 had informed the Court by filing Pursis on 26/09/2022 that respondent No.1- Shri Keshav Mahadev Onkar expired on 05/02/2022 thereafter the appellant has filed this application. Thus, the delay is caused is not intentional one. After receipt of the knowledge, the application is filed and hence, prayed for condonation of delay.

4. Ms A.N. Kashikar, learned Counsel for respondent No.1 has raised objection on the ground that there is no sufficient and reasonable cause for condonation of delay.

5. Heard both the sides and perused the record.
6. As respondent No.1 has received the information on 26/09/2022 thereafter the appellant came to know about the death of respondent No.1.
7. In view of that there is just and reasonable cause for condonation of delay, hence delay is condoned.
8. Civil application is disposed of.

CIVIL APPLICATION NO.11 OF 2023

Heard.

2. As per the contention of the appellant, the knowledge regarding the death of respondent No.1 was after filing of the Pursis by respondent No.1 hence, there is sufficient and reasonable cause for setting aside abatement.
3. In view of reasons mentioned in the application, the abatement is set aside.
4. Civil application is disposed of.

CIVIL APPLICATION NO.13 OF 2023

Heard.

2. Present application is filed for bringing legal representatives of respondent No.1 on record.
3. Ms A.N. Kashikar, learned Counsel waives notice for the proposed legal representatives of respondent No.1
4. In view of the reasons mentioned in the application, the appellant is permitted to bring the legal representatives of respondent No.1 on record.

5. The appellant to carry out the necessary amendment within stipulated period.
6. Civil application is disposed of.

(URMILA JOSHI-PHALKE, J.)

**Divya*