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919-ca-2309-24

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

919 CIVIL APPLICATION NO. 2309 OF 2024
IN FA/975/2018

MANIKRAO BHIMRAO KHARAT (DIED) THR LRS SAHEBRAO
MANIKRAO KHARAT AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA THROUGH THE COLLECTOR JALNA
AND OTHERS.

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Advocate for Applicants : Mr. I. K. Wagh h/f.

Mr. K. M. More

AGP for Respondent – State : Mr. D. B. Bhange

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CORAM : Y. G. KHOBRAGADE, J.

DATE : 16.04.2024

PER COURT :

1. Heard Mr. Wagh holding for Mr. More learned counsel for applicants, Mr. Bhange, learned AGP for non-applicant nos. 1 and 2. None present for non-applicant no.3- acquiring body.

2. By the present application, the applicants prayed for substitution of their names in the place of appellant no.4 – Ramrao Manikrao Kharat and appellant no.10 Gulabrao Manikrao Kharat. According to the learned counsel appearing for the appellant, the appellant no. 4 died on 24.05.2020 and the appellant no.10 died on 29.03.2019 leaving behind the legal heirs described in the application and cause of action survives.

However, the legal heirs of the appellant nos.4 and 10 were not aware about the pendency of the present appeal. Therefore, delay of 585 days has been caused while bringing the legal heirs of deceased appellant no.4 and delay of 1652 days delay while bringing the legal heirs of deceased appellant no.10.

3. The learned AGP for respondent nos. 1 and 2 has not seriously raised objection for bringing the legal heirs of deceased appellant nos. 4 and 10 as well as condonation of delay and setting aside abatement.

4. Since the legal heirs of the deceased appellant nos. 4 and 10 want to prosecute the appeal and the cause of action survives, it would be just and proper to condone the delay caused while filing the present application and to set aside the abatement, so also to permit the appellants to bring the legal heirs of deceased appellant nos. 4 and 10 on record.

5. Accordingly, application is allowed. Necessary amendment be carried out within period of two weeks from today.

(Y. G. KHOBRADE, J.)