

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**24 CIVIL APPLICATION NO. 3502 OF 2024
IN CRA/34/2018
WITH
CIVIL APPLICATION NO.4771 OF 2024
IN CRA/34/2018**

VITHAL PANDURANG KADAM (DIED)
THROUGH LRS. NARENDRAVITHALRAO KADAM AND ANOTHER
VERSUS
THE KOPARGAON CO-OPERATIVE SUGAR KARKHANA LTD.
LEGAL ASSISTANT BALASAHEB VITHAL ABHALE

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Mr. Kolse Patil Madhukar G., Advocate for the Petitioner
Mr. Yuvraj Kakade h/f Mr. Gaware Niteen V., Advocate for
Respondent

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CORAM : SANDIPKUMAR C. MORE, J.

DATED : 18/06/2024.

P. C. :

1. Heard rival submissions.
2. The applicants, who are the legal representatives of deceased judgment debtor - Shri Vithal Panduram Kadam, are seeking recalling of order dated 01/04/2024, whereby cost of Rs.15,000/- has been imposed upon the applicants for not bringing the legal heirs of deceased judgment- debtor on record. The learned counsel for respondent – decree holder strongly opposed the application on the ground that the applicants were totally negligent and in fact the CRA filed by original judgment – debtor was already abated on account of not taking steps for bringing LRS.
3. It is significant to note that the present applicants have also moved application CA No.3502 of 2024 for bringing the legal

representatives of applicant- Vithal by condoning the delay of 990 days for which this court passed order dated 08/04/2024 by observing that unless the cost of Rs.15,000/- is paid, that application is not maintainable. However, to condone the delay in bringing legal representatives of deceased applicant is discretionary relief and for allowing the application No.3502 of 2024, some cost needs to be imposed upon the applicants therein about their negligent conduct.

4. Therefore, this court finds proper that the cost of Rs.15000/- previously imposed upon the applicants vide order dated 01/04/2024, to be reduced to certain extent. In view of the same, Civil Application No.4771 of 2024 stands allowed in following manner.

- A) The order imposing cost of Rs.15000/- upon the applicants dated 01/04/2024 is set aside and the Civil Application No.3502 of 2024 stands allowed in terms of prayer clause-A & B subject to cost of Rs.5000/- to be paid by the applicants therein to the Registry of this court for utilization of High Court Dispensary, Aurangabad within four weeks.
- B) After deposit of cost, the necessary amendment be carried out.
- C) Both the applications are disposed of accordingly.

(SANDIPKUMAR C. MORE, J.)