



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

943 CIVIL APPLICATION NO.4674 OF 2024
IN WP/4108/1999

BAITULBEE SAYED MADAR DIED SAYED DIED LRS SYED AND ORS
VERSUS

GANGABAI HARIBHAU VAIDYA DIED LRS JIJA AND ORS

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Mr. P.P. Mandlik, Advocate for applicants

Mr. C.R. Deshpande, Advocate for respondent Nos.3 to 6 in WP

Mr. H.V. Tungar, Advocate for respondent No.11 in WP

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CORAM : S.G. CHAPALGAONKAR, J.

DATE : 02nd AUGUST, 2024

ORDER :

1 Heard Mr. P.P. Mandlik, learned Advocate appearing for applicants and Mr. H.V. Tungar, learned Advocate appearing for proposed legal representatives of deceased respondent No.3.

2 Mr. P.P. Mandlik points out that intimation regarding death of respondent No.3 was given by learned Advocate appearing for respondent No.3 on 04.09.2023. Thereafter, for reasons as indicated in paragraph No.5 the delay is caused, which is not intentional. Parties are litigating civil rights.

Therefore, it would be in the interest of justice to permit applicants to bring on record legal representatives of deceased respondent No.3.

3 Mr. H.V. Tungar, learned Advocate appearing for proposed legal representatives of respondent No.3 filed affidavit-in-reply. He points out that even after intimation regarding death of respondent No.3, the application is presented after more than seven months. As such, there is an inordinate delay. Further, reasons mentioned in paragraph No.5 are inadequate and insufficient.

4 Having considered submissions advanced, it is apparent that parties are litigating civil rights. Dispute in present proceeding is as regards to tenancy rights. Although explanation as indicated in paragraph No.5 is vague and may not be explanation for each and every day, considering the nature of litigation, delay needs to be condoned with some compensation to legal representatives of respondent No.3. Hence, following order.

ORDER

1 Civil Application is allowed in terms of prayer clause 'B' and 'C', subject to condition that applicants shall pay costs of Rs.2,000/- (Rupees Two Thousand only) to proposed legal representatives of respondent No.3.

2 Amendment to be carried out on or before 16.08.2024.

3 Application stands disposed of.

(S.G. CHAPALGAONKAR)
JUDGE

agd