

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

**915 CIVIL APPLICATION NO. 9216 OF 2024
IN SA/12/2018
WITH
CIVIL APPLICATION NO. 6609 OF 2024
IN SA/232/2018
WITH
SECOND APPEAL NO. 550 OF 2017
WITH
CIVIL APPLICATION NO. 10770 OF 2017
IN SA/550/2017
WITH
SECOND APPEAL NO. 232 OF 2018
WITH
CIVIL APPLICATION NO. 14635 OF 2018
IN SA/232/2018**

**GAYABAI RAMRAO JOGIKOLI
VERSUS
BALIRAM SHANKAR ULMULE AND OTHERS**

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Mr. Solanke Shrikrashna B., Advocate for Applicant
Mr. N. K. Tungar for Respondent Nos.1 to 3
Mr. M. G. Kedar h/f Mr. B. R. Kedar, Advocate for Appellant (in SA No.550 of 2017)

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CORAM : SANDIPKUMAR C. MORE, J.

DATED : 28/08/2024.

P. C. :

1. Heard rival submissions.
2. The present applicant Gayabai has filed Civil Application No.9216 of 2024 for setting aside abatement order in respect of the appeal on death of Limbabai by condoning the delay of 211 days. She also claimed her transposition as an appellant in Second

Appeal No.12 of 2018 since she is also one of the stake holders in family partition.

3. The learned counsel for respondent Nos.1 to 3 strongly opposed the application on the ground that Limbabai had died long back and only the order of abatement was made subsequently. As such, there is a huge delay than the delay shown of 211 days. However, it appears that in all three appeals against the same decree are filed. Further, there is no dispute that Gayabai-the present applicant is one of the legal representatives of deceased Limbabai. As such, considering the nature of parties in partition matter the appeal filed by Limbabai can be continued by one of the coparceners. As such, the Civil Application No.9216 of 2024 stands allowed in terms of prayer clauses-B, C & D subject to cost of Rs.500/- to be paid to Advocate's Bar Library, High Court, Aurangabad.

4. The amendment be carried out within stipulated period and after deposit of cost.

5. Civil Application No.9216 of 2024 is accordingly disposed of.

6. List other connected matters on 12/09/2024.

(SANDIPKUMAR C. MORE, J.)