



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

6 CIVIL APPLICATION NO. 6426 OF 2022
IN CIVIL APPLICATION NO. 5370 OF 2017

WITH
CIVIL APPLICATION NO. 1290 OF 2024 IN CA/5370/2017
WITH
CIVIL APPLICATION NO. 1294 OF 2024 IN CA/5368/2017
WITH
CIVIL APPLICATION NO. 1292 OF 2024 IN CA/5369/2017
WITH
CIVIL APPLICATION NO. 1289 OF 2024 IN CA/5370/2017
WITH
CIVIL APPLICATION NO. 1293 OF 2024 IN CA/5368/2017
WITH
CIVIL APPLICATION NO. 1291 OF 2024 IN CA/5369/2017
WITH
CIVIL APPLICATION NO. 3322 OF 2020 IN CA/5370/2017
WITH
CIVIL APPLICATION NO. 3321 OF 2020 IN CA/5368/2017
WITH
CIVIL APPLICATION NO. 3323 OF 2020 IN CA/5369/2017
WITH
CIVIL APPLICATION NO. 6430 OF 2022 IN CA/5368/2017
WITH
CIVIL APPLICATION NO. 6436 OF 2022 IN CA/5369/2017
WITH
CIVIL APPLICATION NO. 12523 OF 2017 IN CA/5370/2017
WITH
CIVIL APPLICATION NO. 12522 OF 2017 IN CA/5368/2017
WITH
CIVIL APPLICATION NO. 12521 OF 2017 IN CA/5369/2017
IN
SECOND APPEAL NO. 23 OF 1990

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SHANKAR SAWALERAM PATOLE (DIED) THROUGH LRS'
DINKAR AND OTHERS

VERSUS

DADA SAVLERAM PATOLE DIED THROUGH LRS'

RAMCHANDRA (DIED) THROUGH LRS' SUMAN AND
OTHERS

...

Mr. R.R. Karpe – Advocate for Applicants
Mr. D.R. Markad h/f. Mr. N.K. Kakade and Mr. Shaikh
Tarekmobin H. - Advocates for respective Respondents

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CORAM : SANDIPKUMAR C. MORE, J.

DATE : 2nd February, 2024

PER COURT :

(i) CIVIL APPLICATION NO. 6426 OF 2022

1. Heard rival submissions.
2. The applicants are seeking permission to bring all the legal representatives of deceased respondent Nos.1G, 1G(a), 1G(b), 1G(f) and 1G(g) by condoning the respective delay periods mentioned in the application.
3. Learned Counsel for some of the respondents strongly opposed the application on the ground that, there is huge delay and in fact there was also delay in the original Restoration Application.
4. On perusal of the application, it appears that maximum delay appears to be of 16 years, which is not explained

properly. However, considering the statutory right of the applicants, the application is allowed in terms of prayer clause 'B' alongwith the additional prayer clauses in respect of condonation of delay subject to cost of Rs.8,000/- (rupees Eight Thousands only) to be paid to the respondents within two weeks.

5. After payment of cost, the amendment be carried out.

6. The application is accordingly disposed of.

(ii) CIVIL APPLICATION NO. 1290 OF 2024

1. Heard rival submissions.

2. The applicants are seeking permission to bring all the legal representatives of deceased respondent Nos. 2A and 2C by condoning the delay of 1720 days mentioned in the application.

3. Learned Counsel for some of the respondents strongly opposed the application on the ground that, there is huge delay and in fact there was also delay in the original Restoration Application.

4. On perusal of the application, it appears that delay appears to be of 4.7 years, which is not explained properly. However, considering the statutory right of the applicants, the application is allowed in terms of prayer clauses 'B' and 'C' subject to cost of Rs.2500/- (rupees Two Thousands and Five Hundreds only) to be paid to the respondents within two weeks.

5. After payment of cost, the amendment be carried out.

6. The application is accordingly disposed of.

(iii) CIVIL APPLICATION NO. 3322 OF 2020

1. Heard rival submissions.

2. The applicants are seeking permission to bring all the legal representatives of deceased respondent No.1G(e) by condoning the delay of 218 days mentioned in the application. Learned Counsel for some of the respondents strongly opposed the application on the ground that, there is huge delay and in fact there was also delay in the original Restoration Application.

3. On perusal of the application, it appears that the delay is not explained properly. However, considering the statutory right of the applicants, the application is allowed in terms of prayer clauses 'B' and 'C' subject to cost of Rs.500/- (rupees Five Hundreds only) to be paid to the respondents within two weeks.

4. After payment of cost, the amendment be carried out.

5. The application is accordingly disposed of.

(iv) CIVIL APPLICATION NO. 1289 OF 2024

1. Heard rival submissions.

2. The application is for bringing legal representatives of deceased appellant No.3 – Danial Shankar Patole, who admittedly died on 22.11.2023, as mentioned in the title clause. The application is within time and therefore it stands allowed in terms of prayer clause 'B'.

3. The application is accordingly disposed of.

4. Amendment be carried out within stipulated period.

(v) CIVIL APPLICATION NO. 12523 OF 2017

1. Heard rival submissions.
2. The applicants are seeking permission to bring all the legal representatives of deceased respondent Nos. 1C(ii), 1G(g), 1G(h), 3a, 3c and 5a by condoning the respective delay periods mentioned in the application.
3. Learned Counsel for some of the respondents strongly opposed the application on the ground that, there is huge delay and in fact there was also delay in the original Restoration Application.
4. On perusal of the application, it appears that maximum delay appears to be of 6.7 years, which is not explained properly. However, considering the statutory right of the applicants, the application is allowed in terms of prayer clause 'B' alongwith the additional prayer clauses in respect of condonation of delay subject to cost of Rs.3,500/- (rupees Three Thousands and Five Hundreds only) to be paid to the respondents within two weeks.

5. After payment of cost, the amendment be carried out.

6. The application is accordingly disposed of.

(vi) CIVIL APPLICATION NO. 1291 OF 2024

1. Heard rival submissions.

2. The application is for bringing legal representatives of deceased appellant No.3 – Danial Shankar Patole, who admittedly died on 22.11.2023, as mentioned in the title clause. The application is within time and therefore it stands allowed in terms of prayer clause 'B'.

3. The application is accordingly disposed of.

4. Amendment be carried out within stipulated period.

(vii) CIVIL APPLICATION NO. 1292 OF 2024

1. Heard rival submissions.

2. The applicants are seeking permission to bring all the legal representatives of deceased respondent Nos. 2A and 2C by condoning the delay of 1720 days mentioned in the application.

3. Learned Counsel for some of the respondents strongly opposed the application on the ground that, there is huge delay and in fact there was also delay in the original Restoration Application.

4. On perusal of the application, it appears that delay appears to be of 4.7 years, which is not explained properly. However, considering the statutory right of the applicants, the application is allowed in terms of prayer clauses 'B' and 'C' subject to cost of Rs.2500/- (rupees Two Thousands and Five Hundreds only) to be paid to the respondents within two weeks.

5. After payment of cost, the amendment be carried out.

6. The application is accordingly disposed of.

(viii) CIVIL APPLICATION NO. 3323 OF 2020

1. Heard rival submissions.

2. The applicants are seeking permission to bring all the legal representatives of deceased respondent No.1G(e) by condoning the delay of 218 days mentioned in the application.

3. Learned Counsel for some of the respondents strongly opposed the application on the ground that, there is huge delay and in fact there was also delay in the original Restoration Application.

4. On perusal of the application, it appears that the delay is not explained properly. However, considering the statutory right of the applicants, the application is allowed in terms of prayer clauses 'B' and 'C' subject to cost of Rs.500/- (rupees Five Hundreds only) to be paid to the respondents within two weeks.

5. After payment of cost, the amendment be carried out.

6. The application is accordingly disposed of.

(ix) CIVIL APPLICATION NO. 6436 OF 2022

1. Heard rival submissions.

2. The applicants are seeking permission to bring all the legal representatives of deceased respondent Nos.1G, 1G(a), 1G(b), 1G(f) and 1G(g) by condoning the respective delay periods mentioned in the application.

3. Learned Counsel for some of the respondents strongly opposed the application on the ground that, there is huge delay and in fact there was also delay in the original Restoration Application.

4. On perusal of the application, it appears that maximum delay appears to be of 17.6 years, which is not explained properly. However, considering the statutory right of the applicants, the application is allowed in terms of prayer clause 'B' alongwith the additional prayer clauses in respect of condonation of delay subject to cost of Rs.9,000/- (rupees Nine Thousands only) to be paid to the respondents within two weeks.

5. After payment of cost, the amendment be carried out.

6. The application is accordingly disposed of.

(x) CIVIL APPLICATION NO. 12521 OF 2017

1. Heard rival submissions.

2. The applicants are seeking permission to bring all the legal representatives of deceased respondent Nos. 1C(ii), 1G(g),

1G(h), 3a, 3c and 5a by condoning the respective delay periods mentioned in the application.

3. Learned Counsel for some of the respondents strongly opposed the application on the ground that, there is huge delay and in fact there was also delay in the original Restoration Application.

4. On perusal of the application, it appears that maximum delay appears to be of 6.4 years, which is not explained properly. However, considering the statutory right of the applicants, the application is allowed in terms of prayer clause 'B' alongwith the additional prayer clauses in respect of condonation of delay subject to cost of Rs.3,500/- (rupees Three Thousands and Five Hundreds only) to be paid to the respondents within two weeks.

5. After payment of cost, the amendment be carried out.

6. The application is accordingly disposed of.

(xi) CIVIL APPLICATION NO. 12522 OF 2017

1. Heard rival submissions.
2. The applicants are seeking permission to bring all the legal representatives of deceased respondent Nos. 1C(ii), 1G(f), 1G(g), 1G(h), 3a, 3c and 5a by condoning the respective delay periods mentioned in the application.
3. Learned Counsel for some of the respondents strongly opposed the application on the ground that, there is huge delay and in fact there was also delay in the original Restoration Application.
4. On perusal of the application, it appears that maximum delay appears to be of 6.4 years, which is not explained properly. However, considering the statutory right of the applicants, the application is allowed in terms of prayer clause 'B' alongwith the additional prayer clauses in respect of condonation of delay subject to cost of Rs.3,500/- (rupees Three Thousands and Five Hundreds only) to be paid to the respondents within two weeks.

5. After payment of cost, the amendment be carried out.

6. The application is accordingly disposed of.

(xii) CIVIL APPLICATION NO. 6430 OF 2022

1. Heard rival submissions.

2. The applicants are seeking permission to bring all the legal representatives of deceased respondent Nos.1G, 1G(a), 1G(b), 1G(f) and 1G(g) by condoning the respective delay periods mentioned in the application.

3. Learned Counsel for some of the respondents strongly opposed the application on the ground that, there is huge delay and in fact there was also delay in the original Restoration Application.

4. On perusal of the application, it appears that maximum delay appears to be of 16.8 years, which is not explained properly. However, considering the statutory right of the applicants, the application is allowed in terms of prayer clause 'B' alongwith the additional prayer clauses in respect of condonation of delay subject to cost of Rs.8,500/- (rupees

Eight Thousands and Five Hundreds only) to be paid to the respondents within two weeks.

5. After payment of cost, the amendment be carried out.
6. The application is accordingly disposed of.

(xiii) CIVIL APPLICATION NO. 3321 OF 2020

1. Heard rival submissions.
2. The applicants are seeking permission to bring all the legal representatives of deceased respondent No.1G(e) by condoning the delay of 218 days mentioned in the application.
3. Learned Counsel for some of the respondents strongly opposed the application on the ground that, there is huge delay and in fact there was also delay in the original Restoration Application.
4. On perusal of the application, it appears that the delay is not explained properly. However, considering the statutory right of the applicants, the application is allowed in terms of prayer clauses 'B' and 'C' subject to cost of Rs.500/- (rupees

Five Hundreds only) to be paid to the respondents within two weeks.

5. After payment of cost, the amendment be carried out.
6. The application is accordingly disposed of.

(xiv) CIVIL APPLICATION NO. 1293 OF 2024

1. Heard rival submissions.
2. The application is for bringing legal representatives of deceased appellant No.3 – Danial Shankar Patole, who admittedly died on 22.11.2023, as mentioned in the title clause. The application is within time and therefore it stands allowed in terms of prayer clause 'B'.
3. The application is accordingly disposed of.
4. Amendment be carried out within stipulated period.

(xv) CIVIL APPLICATION NO. 1294 OF 2024

1. Heard rival submissions.
2. The applicants are seeking permission to bring all the

legal representatives of deceased respondent Nos. 2A and 2C by condoning the delay of 1720 days mentioned in the application.

3. Learned Counsel for some of the respondents strongly opposed the application on the ground that, there is huge delay and in fact there was also delay in the original Restoration Application.

4. On perusal of the application, it appears that delay appears to be of 4.7 years, which is not explained properly. However, considering the statutory right of the applicants, the application is allowed in terms of prayer clauses 'B' and 'C' subject to cost of Rs.2500/- (rupees Two Thousands and Five Hundreds only) to be paid to the respondents within two weeks.

5. After payment of cost, the amendment be carried out.

6. The application is accordingly disposed of.

[SANDIPKUMAR C. MORE]
JUDGE