



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

16 CIVIL APPLICATION NO. 14563 OF 2023
IN SECOND APPEAL NO. 316 OF 1994

PUNDA SHETYA WAGHMARE L.RS. ANTESHWAR PUNDAJI
WAGHMARE AND OTHERS

VERSUS

IRRANNA SAKHARAM L.RS. DHARMAJI IRANNA PADALWAR
AND OTHERS

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Mr. Wasif S. Shaikh h/f. Mr. M.D. Narwadkar – Advocate for
Applicants

Mr. M.S. Karad h/f. Mr. S.S. Thombre – Advocate for
Respondent No.1-5

Ms. Vishakha Patil h/f. Mr. S.B. Talekar – Advocate for
Respondent No.5

Mr. G.S. Shembole – Advocate for Respondent Nos.1/A to 1/D

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CORAM : SANDIPKUMAR C. MORE, J.

DATE : 29th January, 2024

PER COURT :

1. Heard rival submissions.
2. The applicants – appellants are seeking restoration of their Second Appeal which stood abated vide order dated 31.08.2023 by condoning the delay of 65 days. The reason for delay is given that, some of the appellants were no more and, therefore, the said appeal could not be work out.
3. Learned Counsel for the concerned respondents strongly

opposed the application on the ground that, the applicants – appellants since beginning were not diligent in prosecuting the appeal. They also failed to take steps in respect of some of the appellants who are not alive. However, it seems that the applications for bringing legal representatives of those appellants are still pending alongwith the prayer of condonation of delay. Those applications can be heard on their own merits.

4. Considering statutory right of the applicants – appellants, the application stands allowed in terms of prayer clause-A subject to cost of Rs.500/- (rupees Five Hundreds only) to be paid to the Library, Advocates Association of High Court, Bombay, Bench at Aurangabad.

5. Second Appeal No.316 of 1994 stands restored to its original stage after deposit of cost.

6. The application is disposed of accordingly.

[SANDIPKUMAR C. MORE, J.]