



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

**CIVIL APPLICATION NO. 767 OF 2024
IN SA/163/2023**

**SHRI NARESH KANAKKUMAR DOSHI
VERSUS**

**MITHABAI BABURAO DUSING DECESED THROUGH HER LEGAL
HEIRS AND OTHERS**

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Mr. S. V. Suryawanshi, Advocate for applicant

Mr. Sudhir Akhade, Advocate h/f Mr. A. R. Syed, Advocate for
Respondent Nos. 2A to 2C, 4

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CORAM : Y. G. KHOBRAGADE, J.

DATE : 12 MARCH 2024

PER COURT :-

1. Heard both the sides at length.
2. The present application has been filed for condonation of delay of 80 days caused while bringing the legal heirs of deceased respondent No.5 on record as well as setting aside the abatement.
3. The non-applicants strongly opposed the application on the ground that the delay of 80 days has not been satisfactorily explained, hence prayed for rejection of the application.

4. It is well settled principle of law that the litigant should not be deprived from receiving substantial justice on the technical ground. In the case in hand, the applicant-appellant contended that during the pendency of the present appeal, on 25.06.2023, respondent No.5 died, however, the applicant was not aware about death of respondent No.5 and soon after when he came to know about the death of respondent No.5, he filed the present application for which delay of 80 days caused while bringing the legal heirs of respondent No.5 on record. The delay is duly sufficiently explained. The delay appears to be bona-fide and substantial, therefore, the delay of 80 days is hereby condoned. The abatement is hereby set aside against respondent No.5.

5. The civil application is allowed. The applicant is hereby permitted to bring the legal heirs of deceased respondent No.5 on record. The necessary amendment be carried out on or before 28.03.2024.

[Y. G. KHOBRADE, J.]

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