



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

**CIVIL APPLICATION NO. 4538 OF 2024  
IN CA/4745/2023**

**SUDHAKAR SAMBHA KAMBALE & ORS.  
VERSUS  
BABU SUDAM KAMBALE DIED THROUGH LRS**

...

Mr. Aniket Vijaysinh Patil, Advocate for Applicants.

Mr. Dhananjay Deshpande, Advocate for Respondent Nos.1a to 1d,  
3 and 4.

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**CORAM : S. G. CHAPALGAONKAR, J.  
DATED : 26<sup>th</sup> NOVEMBER, 2024.**

**P.C.:-**

1. This application is filed seeking permission to bring on record legal representative of respondent no.2-Uttam Sada Kamble, who died on 04.12.2022. There is delay of 600 days in filing this application. Hence, prayer is made to condone the delay.

2. The learned Advocate appearing for the applicants submits that applicants were not intimated about death of Uttam Kamble. They came to know about his death only when report of Bailiff in pursuance of notice of this Second Appeal was received. After getting such knowledge, they obtained death certificate from competent authority and then filed this application. Therefore, delay of 600 days is not intentional. The applicants have not derived disadvantage by making such delay. He would, therefore, urge to condone the delay and grant application for bringing legal representative of respondent no.2 on record.

3. Per contra, Mr. Deshpande, learned Advocate appearing for the respondents vehemently opposed the application. He would submit that explanation tendered by applicants is insufficient.

Parties are resident of same village. Therefore, they aware about death of respondent no.2. He would submit that application sans requisite reasons to explain inordinate delay of 600 days. He would, therefore, urge to reject the application.

4. Having considered submission advanced, it can be observed that Uttam Kamble died after judgment delivered by First Appellate Court. The Second Appeal is filed by applicants assuming him to be alive. The notice of Second Appeal was issued to him and in response the report of Bailiff received with endorsement that Uttam Kamble died. It can be observed that applicants have obtained death certificate after receipt of Bailiff report and filed this application. Although delay is not explained for each and every day, however, totality of circumstances surfacing on record indicates that applicants have given plausible reason for delay. Pertinently, Second Appeal pertains to right of parties in respect of immovable property. The claim of the parties cannot be defeated on technical reasons. In that view of the matter, case is made out to allow the application. Hence, following order is passed:-

**ORDER**

- a. Civil Application is allowed in terms of prayer Clauses (B) and (C).
- b. Amendment to be carried out within a period of two weeks.

**(S. G. CHAPALGAONKAR)**  
**JUDGE**