

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 3537 OF 2024
IN
SECOND APPEAL NO.505 OF 2004**

Hindurao Mahadev Sawant (SINCE Deceased
Through Legal Heirs) .. Applicant
v/s.
State Of Maharashtra & Ors. .. Respondents

Mr. Rajaram V. Bansode a/w. Ms. Sheetal M. Ubale
for the Applicant.

Mr. C.D. Mali, APP for the Respondent No.1-State.

Mr. Dattaram R. Bile i/b. Dr. Uday Prakash Warunjikar for
the Respondent No.2 to 4.

**CORAM : SHYAM C. CHANDAK, J.
DATE : 2nd SEPTEMBER, 2024.**

P.C. :

. Heard Mr. Bansode, learned Advocate for the Applicant.
Perused the application.

2) Mr. Mali learned APP for Respondent No.1-State and Mr.
Bile appears for Respondent No. 2 to 4. Hence, with consent of
learned Advocates for respective parties, taken up for final hearing .

3) Learned Advocate for the Applicant submits that the
Applicant's legal heirs have very good case on merit. Therefore, the

delay may be condoned. He submits that even though some delay may not be excusable, it may be condoned subject to reasonable cost, as the Applicants have not received undue advantage of the said delay. The learned APP and learned Advocate for the Respondent No.2 to 4 concede to condone the delay subject to cost, as aforesid.

4) In view thereof, interim application deserves to be allowed accordingly. Hence following order:

- i) The Interim Application is partly allowed.
- ii) The delay of 1 year and 25 days in filing this application is condoned subject to payment of cost of Rs.3000/- to the Kirtikar Law Library.
- iii) Abatement of Appeal qua the deceased Appellant No.1 is set aside.
- iv) The proposed legal heirs i.e. Appellant Nos. 1(A) to 1(D) are permitted to be brought on record.
- v) Aforesaid cost shall be paid and amendment shall be carried out within a period of two weeks from the date of uploading of this order on the official website of High Court Bombay.
- vi) Amended memo of Second Appeal be placed on record, with an advance copy to the Respondents.

- vii) The Application is disposed of accordingly.

(SHYAM C. CHANDAK, J.)