

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

**INTERIM APPLICATION NO. 12420 OF 2024
IN
SECOND APPEAL NO. 483 OF 1999**

Ankush Shahu Doke (since deceased
through legal heirs) :
Gangubai Ankush Doke (name deleted)
Bapu Mahipati Kadam

.... Applicant

Vs.

Ramchandra Shivilal Doke (since deceased
through legal heirs) :
Vishnu Ramchandra Doke and ors.

.... Respondents

Mr. Ashok B. Tajane for the Applicant/Appellant.
Mr. Devidas Jadhav for proposed legal representatives of
deceased Respondent No.3.
Mr. Abhishek P. Deshmukh a/w. Adv. Samiksha Mane i/b.
Mr. S.A. Sawant for Respondent No.4.

CORAM : SHYAM C. CHANDAK, J.

DATED : 13th SEPTEMBER, 2024

P.C. :-

. Rule. Rule made returnable forthwith and with consent of the learned counsel for the parties, heard finally.

2) Present Application seeks condonation of delay of 02 years and 07 months in filing this Interim Application seeking for setting-aside of abatement of Appeal to the extent of deceased Respondent No.3 and permission to bring on record the legal representatives of the said Respondent No.3.

3) Heard Mr. Tajane, learned Advocate for the Applicant/Appellant, Mr. Jadhav, learned Advocate for Respondent No.3 and

Mr. Deshmukh, learned Advocate for Respondent No.4. Perused the Application.

4) Learned Advocate for the Applicant/Appellant submits that, the present Application is filed immediately after the Appellants knew that, the said Respondent No.3 has expired. The delay, whatsoever, is not deliberate, nor the Appellant has taken any advantage of the said delay. He further submits that, bringing the proposed legal representatives on record is essential for just adjudication of the Appeal.

5) Mr. Jadhav, learned Advocate who was appearing for the said deceased Respondent No.3, made a statement that, he has instructions to appear on behalf of the proposed legal representatives of the deceased Respondent No.3 and he undertakes to file vakalatnama on or before the next date. Further, he states that, he has no objection to allow the Application.

6) In view thereof and having regard to the grounds stated in the Application, the present Application deserves to be allowed. Hence, the following Order :-

- ORDER -

- (a) Interim Application No.12420 of 2024 is allowed.
- (b) The delay of 02 years and 07 months in filing this Interim Application is condoned.
- (c) Abatement of Appeal to the extent of deceased Respondent No.3 is set-aside.

(d) Appellant is permitted to bring on record the proposed legal representatives of deceased Respondent No.3.

(e) Amendment be carried out within a period of two weeks. Amended copy of the Appeal memo be placed on record with advance copy to the other side.

7) Interim Application stands disposed of in above terms. Rule made absolute.

PREETI
HEERO
JAYANI

Digitally signed
by PREETI
HEERO JAYANI
Date: 2024.09.18
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(SHYAM C. CHANDAK, J.)