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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11916 OF 2017

ATUL
GANESH
KULKARNI

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Akaram Ganpatil Gotkhinde

... Petitioner

V/s.

Shevantabai Dattu Ghorpade.

Since deceased through LRs.

... Respondents

Mr. Sandip Khandekar i/by Mr. Nagesh Chavan for the
petitioner.

CORAM : AMIT BORKAR, J.

DATED : NOVEMBER 26, 2024

PC.:

1. The Trial Court by the impugned order rejected petitioner's application to condone delay of 12 years in filing the application for setting aside abatement.

2. The petitioner filed a suit for permanent injunction on 16 March 1978 against defendant – Shevantabai. Shevantabai passed away on 14 January 2002. As per Article 120 of the Limitation Act, the legal representatives of the defendant needed to be brought on record. The period of 90 days expired on 14 April 2002. However, the petitioner filed application for bringing legal representatives on record on 31 October 2014. Hence, there was delay of 12 years 6 months and 16 days in filing the application for bringing legal representatives on record.

3. In absence of sufficient cause, the Trial Court was justified in rejecting the application. The cause shown by the petitioner that the documents regarding the proceedings were before another Court. Such an explanation cannot be termed as sufficient cause within the meaning of Section 5 of the Limitation Act.
4. The writ petition, thus, stands dismissed. No costs.

(AMIT BORKAR, J.)