

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.3543 OF 2023

IN

SECOND APPEAL NO.509 OF 2011.

Shri. Channappa Tammanna Jabagonda
(deceased Thr. Legal Heirs) 1a Smt. Guravva
Channappa Jabagonda

...Appellant.

Versus

Shri. Sidhappa Bhimanna Ghejji (deceased Thr.
Legal Heirs) 1a Gouravva Sidhappa Ghejji

...Respondent.

*Mr. Tukaram Shendge i/b Mr. Amit Sale for the Appellant.
Mr. Ramdas Shelke for Respondent Nos.1A to 1C.*

Coram : Sharmila U. Deshmukh, J.

Date : April 22, 2024.

P. C. :

1. Heard.
2. Interim Application has been preferred for bringing legal heirs of deceased appellant No.2 and for condonation of delay of 7 years and 14 days caused in filing the present application.
3. Learned counsel appearing for applicant submits that second appeal was filed in the year 2011 and was pending admission. He

submits that as the matter was pending for a long time there was a communication gap between the advocate for the appellants and the appellants. He submits that the advocate for the appellant was not informed of the death of appellant No.2, who expired on 4th November 2015. He submits that it is only subsequently when the matter was admitted on 30th March 2017 and thereafter for the purpose of listing the matter for final hearing communication was established with the appellant, advocate for appellant was informed about the death of the appellant No.2. He submits that as such delay was not intentional and deserves to be condoned.

3. *Per contra*, learned counsel for respondent does not dispute the position that the matter was pending for admission since long and does not seriously oppose the Application.

4. It is well known that after the appeals are filed usually there is communication gap between the appellants, who are residing in the interiors of Maharashtra and the advocate and unless the matters are taken up for admission or final hearing, no information is given to the advocate for the applicant about the subsequent developments. Considering that the matter was diligently pursued before the Trial Court and the Appellate Court and also before this Court which is

evidenced from the admission of the appeal in the year 2017, delay of 7 years and 14 days is sufficiently explained and deserves to be condoned.

5. In light of the above delay of 7 years and 14 days is condoned. Interim Application is allowed. Amendment to be carried out within a period of two weeks from today.

[Sharmila U. Deshmukh, J.]