

BALAJI
GOVINDRAO
PANCHAL

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

**CIVIL APPLICATION NO.3751 OF 2016
IN
FIRST APPEAL NO.547 OF 1990**

Mohammad Salim Usman
Since deceased through legal heirs
Shaikh Imam Usman & Ors. ..Applicants
Versus
Khan Burhanulla Abdul Baki ..Respondent

Mr. Vijay Killedar, for the Applicants.

CORAM : KISHORE C. SANT, J.

DATE : 4th APRIL, 2024

PC.

1. This Application is filed seeking restoration of the First Appeal No.547 of 1990, which was dismissed in view of order dated 18.03.2006. The Appellant was directed to file private paper-book within period of four days from the date of order and for non-compliance, the Appeal was to stand dismissed for want of prosecution. Appellant No.2 died in 2004 i.e. before passing of the order. Appellant No.1 died in 2009. Appellant No.3 also died on 08.08.2008. They were not aware of the order passed in 2006. Present Applicants are heirs of original Appellants. Even Applicants could not get knowledge of the impugned order. Applicants have also now filed additional affidavit on record stating that they

received knowledge in 2015 while prosecuting Misc. Application No.647 of 1988 before the District Judge, Pune. In that proceedings, the Applicants got knowledge of pendency of filing of the Appeal and dismissal order. It is thereafter the present Application came to be filed and therefore there is delay of 9 years and 295 days.

2. Considering above, the Application stands allowed.
3. The First Appeal stands restored to its original status.
4. The Civil Application stands disposed of.

[KISHORE C. SANT, J.]