



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 7746 OF 2024
IN
SECOND APPEAL NO. 513 OF 2013

Babu Changya Patil
Since deceased through legal heirs and Others. ...Appellants.
Versus
Bhagibai Phulaji Mhaskar
Since deceased through legal heirs and Others. ...Respondents.

Mr. Prasad B. Kulkarni and Mr. Raghevendra B. Kulkarni for the Appellant.
Ms. Sakshi S. Inamdar, Mr. Siddhesh Pilankar i/b Dr. uday P. Warunjikar for the
Respondent Nos. 12/1 to 12/3, 13 to 16 and 18.
Mr. Prathamesh Sawant i/b Mr. Mandar Limaye for the Respondent Nos. 1, 2,
3/1 to 3/2, 4 to 7, 8/1 and 8/2.

Coram : Sharmila U. Deshmukh, J.

Date : April 16, 2024.

P. C. :

1. Interim application has been preferred for bringing on record the legal heirs of deceased the Appellant No. 1/5 and for setting aside the abatement and condoning the delay of 7 years and 316 days occurred in filing the present interim application.
2. Learned counsel appearing for the Appellant submit that by order dated 19th November 2013, this Court had issued notice of

admission, thereafter before the matter could be listed for admission, the Appellant No. 1/5 expired on 21st January 2016. He would submit that the proceedings of second appeal were pending for long time in this Court and as such there was a gap of communication. He submits that only upon verifying the record, he became aware that the legal heirs of the deceased Appellant No.1/5 have remained to be taken on record and as such there has been delay in filing the present application.

3. Learned counsel appearing for the Respondents oppose the application and submit that no sufficient cause is shown for delay.

4. Notice of admission was issued by this Court on 19th November 2013. It is well known that after the notices are issued, the same require some time to be served and the matters are not listed for admission soon thereafter. The explanation tendered is that the appeal was pending for some time and several parties expired in the meanwhile and as such there was no clarity as to whether the heirs of deceased Appellant No.1/5 were taken on record.

5. The explanation can be accepted for the reason that it is not in the interest of Appellant to delay the appeal and not bring the legal heirs of deceased Appellant on record as in that event the appeal

qua the deceased Appellant would have abated.

6. For the reasons stated in the application, the same is allowed. The delay is condoned and the abatement is set aside. Amendment to be carried out within a period of two weeks from today.

[Sharmila U. Deshmukh, J.]