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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 251 OF 2024**

IN

FIRST APPEAL NO. 392 OF 2017

Municipal Corporation Of Greater Mumbai ... Appellant/Applicant(Org
Defendant No. 1

Vs.

Mr. Sapan Bhupesh Das Through His ... Respondent
Constituted Attorney Ritesh Rasajivan Sharma

Mr. Santosh Parad, for the Appellant/MCGM.
Adv. Prabhat J. Dubey a/w Adv. Aarti Yadav & Adv. Nikita A Pandey, for the
Respondent.

CORAM : KISHORE C. SANT, J.

DATE : 8th March, 2024

P.C.:-

1. Heard. This Application is filed for bringing on record legal heirs of deceased Respondent No. 1/Sapan Bhupesh Das in the place of Original Respondent No. 1. He died on 19.04.2020 intimation of his death was given in the Office of Legal Department of the the Corporation on 01.03.2021. The Application is filed on 13th December 2023, there is delay of 3 years and 239 days caused in filing this Application.

2. The learned Advocate for the Corporation submits that the delay is not deliberate i.e. because of the procedural delay. The Applicant submit that thought the Interim Application for delay was ready but due to shortage of staff and due to oversight the same could not be filed and hence

there is a delay in filing the present Application.

3. The learned Advocate for the proposed Respondents submits that infact notice/intimation was given on 01.03.2021 at that time there was Covid Situation. However after 01.03.2021 the Corporation was expected to immediately file this Application. It is only after the matter was circulated twice before this Court the Corporation sought sometime to file this Application. By order dated 01.12.2022 this Court adjourned the Appeal by way of last chance to 14.12.2023, it is only on that this Application came to be filed he prays for rejection of the Application stating that now the Appeal must abate.

4. Heard the parties. This courts finds that the intimation was given on 01.03.2021 and still no step were taken the Court is not convinced by the reasons assigned in the Application no specific reason is given the reason of shortage of staff and due to oversight one of the said reasons for delay. This court is not convinced with the reasons however to give chance to contest the appeal on merits.

5. The Application is allowed subject to costs of Rs. 2500/- to be paid within 4 weeks. The cost be paid to the Legal Services Authority.

6. The amendment be carried out within 2 weeks after the cost is deposited.

(KISHORE C. SANT, J.)