

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

**INTERIM APPLICATION NO. 41 OF 2024
IN
SECOND APPEAL NO. 611 OF 2006**

Shri. Mahadev Bhikaji Parab (since
deceased through legal heirs) :

Smt. Parvati Mahadev Parab and ors.

.... Applicants

V/s.

Smt. Sita Rama Rane and ors.

.... Respondents

Mr. Sudhir Prabhu for the Applicants/Appellants.

CORAM : SHYAM C. CHANDAK, J.

DATED : 02nd AUGUST, 2024

P.C. :-

1) Present Application is seeking for condonation of 1360 days delay in filing this Application for setting aside the abatement of the above said Appeal against Respondent No.5, for setting aside the abatement of the Appeal and to amend the cause title of the Appeal.

2) As stated in the Application, Respondent No.5 in the Appeal is survived by only 04 legal representatives i.e., Respondent Nos.1 to 4, meaning thereby there are no other legal representatives of Respondent No.5.

3) Record indicates that, notice of this Application was issued to Respondent Nos.1 to 4. However, Respondent No.2 refused to accept the notice. The Respondent Nos.1, 3 and 4 accepted the notice but refused to

acknowledge the receipt of the same under their signature. Therefore, the notices were affixed at the conspicuous part of the house of Respondent Nos.1 to 4. Thus, all the Respondents have been duly served with the notice. However, they failed to file their appearance.

4) In view thereof and considering that, the Respondent Nos.1 to 4 being the legal representatives of deceased Respondent No.5 are already on record, the Application deserves to be allowed. Hence, the following order :-

- (a) Interim Application No.41/2024 is allowed.
- (b) Delay of 1360 days in filing this Application is condoned. Abatement of the Appeal is set-aside.
- (c) Appellants are permitted to carry out the necessary amendment in the cause-title of the Appeal, in respect of the deceased Respondent No.5.
- (d) Amendment be carried out within a period of two weeks from the date of uploading of this Order.

5. Interim Application stands disposed of.

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JAYANI

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(SHYAM C. CHANDAK, J.)