

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

**INTERIM APPLICATION NO. 9967 OF 2024**

**IN**

**FIRST APPEAL NO. 566 OF 2015.**

Mr. Dinu Pascal Borne (Since deceased)

Thr Lrs Mr. Zenokamal Dominic Borne & Anr.

...Applicants.

**Versus**

Nicholai D'souza And Ors.

...Respondents.

*Mr. Inderjeet Yadav for the Applicant.*

*Mr. Nachiket Vilol Khaladkar for Respondent No. 1, 2.*

**Coram : Sharmila U. Deshmukh, J.**

**Date : September 30, 2024.**

**P. C. :**

1. Interim Application has been preferred for bringing on record legal heirs of the sole Appellant and for condonation of delay of 520 days caused in preferring the Application and for setting aside the abatement.

2. The Appeal is of the year 2015 and during the pendency of the above First Appeal the Appellant expired on 17<sup>th</sup> November 2020.

3. Learned Counsel appearing for the Applicant would submit that the legal heirs were not aware of the legal procedure and therefore the advocate on record was not informed about the death of the Original Appellant. He submits that when the Appeal was listed for

hearing upon communicating with the legal heirs the fact came to his knowledge and therefore the Application came to be filed. He would further submit that the Appellant died during the Covid-19 and therefore there is a delay in filing the present Application.

4. Learned Counsel appearing for the Respondent does not seriously oppose the Application. For the reasons stated the delay of 520 days is condoned and the abatement is set aside.

5. Interim Application is allowed and disposed of.

6. Amendment to be carried out within period of 3 weeks from today.

**[Sharmila U. Deshmukh, J.]**