



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

**INTERIM APPLICATION NO. 1171 OF 2024**

**IN**

**WRIT PETITION NO. 5528 OF 1999**

Prataprao Manikrao Shivale and Another. ...Applicants.

*In the matter between :*

Shri Vasanttrao Udhavrao Shivale  
and Others. ...Petitioners.

**Versus**

Shamrao S. Ingale and Another. ...Respondents.

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*Mr. Yogesh Patil i/b Mr. Vijay Patil for the Applicants / Petitioners.*  
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**Coram : Sharmila U. Deshmukh, J.**

**Date : July 22, 2024.**

**P. C. :**

1. Heard.
2. At the outset, learned counsel appearing for the Applicant seeks leave to add prayer for setting aside the abatement. Leave to amend granted. Necessary amendment be carried out forthwith.
3. Application has been preferred for bringing on record the legal heirs of deceased Petitioner No.1, for condonation of delay of 2813 days caused in filing present application and for setting aside the abatement
4. Learned counsel appearing for the Applicant submits that

petition is of the year 1999 and was already admitted and during the pendency of petition, Petitioner No.1 had expired. He submits that the Applicant was not aware of the legal procedure and that they had to communicate the advocate about the death of Petitioner No.1. He submits that in view thereof, there is a delay of 2813 days caused in filing the application.

**5.** Though the affidavit-in-reply has been filed by the Respondent No.1, none appears for the Respondent No.1.

**6.** It cannot be disputed that in normal course, after the writ petition is admitted, there is lack of communication between the litigant and the advocate. The explanation tendered cannot be doubted as the petition is of the year 1999 and the Petitioner No.1 has expired in the year 2016. Due to long gap for the petition coming up on board, the explanation that the Applicant was not aware that the information about the same has to be given to the Advocate is required to be accepted.

**7.** In the light of above, delay is condoned. Interim application is allowed in terms of prayer clauses (a), (b) and (c). Amendment to be carried out within two weeks from today.

**8.** Interim application stands disposed of.

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