



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 8452 OF 2024
IN
WRIT PETITION NO. 1525 OF 1999

Shrimant Govind Jadhav

Since deceased Thr. LRs. and Others. ...Applicants/Petitioners.

Versus

State of Maharashtra and Others. ...Respondents.

Mr. D. S. Patil and Mr. Suyash Sule for the Petitioner.

Mr. N. J. Patil for the Respondent No. 6, 7, 8A, 8B, 8C and 8G.

Ms. P. J. Gavane, AGP for the Respondent-State.

Coram : Sharmila U. Deshmukh, J.

Date : September 9, 2024.

P. C. :

1. At the outset, learned counsel for the Petitioner seeks permission to incorporate a payer clause for setting aside abatement. Permission granted,. Amendment to be carried out forthwith.
2. Interim application has been preferred for bringing on record the legal heirs of deceased Petitioner and for condonation of delay of 11 years and 4 months caused in preferring the application and for setting aside abatement.
3. Learned counsel appearing for the Applicant submits that the petition is of the year 1999 and after admission was listed on board on

few dates and was not listed after 10th June 2010 and the original Petitioner expired in the year 2012. He further submits that information about the death of Petitioner was given to the previous advocate, however, no steps were taken by him for bringing on record the legal heirs. He submits that upon a change of advocate, the said information was conveyed to the present advocate and thereafter the present application has been preferred.

4. Mr. Patil, learned counsel appearing for the Respondent does not seriously oppose the application.

5. It cannot be disputed that once the petition is admitted, there is a gap in the communication between party and the advocate on record unless the petition comes up for final hearing. In this case, learned counsel appearing for the Appellant submits after 2010, the petition was not listed on board and the Petitioner had expired in the year 2012. Even if it is accepted that the fact of the death of the Petitioner was communicated to the previous advocate, the litigant should not be made to suffer for the default on the part of advocate.

6. Petition has been admitted in the year 1999 and is awaiting final hearing. Sufficient explanation has been given for the delay caused in preferring the application.

7. None appears for the Respondent No.5 and the Respondent No. 8D to 8F.

8. In the light of above, Interim Application is allowed and the delay of 11 months and 4 months caused in preferring the application is condoned and the abatement is set aside. Amendment to be carried out within four weeks from today.

[Sharmila U. Deshmukh, J.]