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

**INTERIM APPLICATION NO.8641 OF 2024  
IN  
FIRST APPEAL NO.69 OF 2005**

Parshuram Shivram Sonawane  
Since deceased through legal heirs  
Smt. Laxmibai Parshuram Sonawane & Ors. ..Applicants

Versus  
Chief Officer, Bombay Housing And  
Area Development Board & Ors. ..Respondents

Ms. Prapti Shetty a/w Kainaz Irani i/by Satish Chetiyar, for the  
Applicants.

Mr. Kevin Pereira i/by Sushmit Phatale, for Respondent Nos.3 to 11.

**CORAM : SHAILESH P. BRAHME, J.**

**DATE : 9<sup>th</sup> AUGUST, 2024**

**P C.**

1. Heard learned counsel for the Applicants and learned  
counsel for Respondent Nos.3 to 11.

2. None appears for Respondent Nos.1 and 2.

3. This Application is for condonation of delay, setting  
aside abatement and bringing heirs of Appellant No.1 on record.  
There is delay of 117 days in taking steps against deceased  
Appellant No.1/Parshuram Shivram Sonawane. Appellant No.1 died  
on 7<sup>th</sup> July, 2023. Learned counsel for the Applicants submits that

for the reasons stated in paragraph No.9, the delay deserves to be condoned. It is further contended that delay is not deliberate and the cause of action survives against heirs of Appellant No.1, who are the Applicants before the Court.

4. Learned counsel for Respondent No.3 to 11 submits that a communication is addressed to learned counsel for the Appellant informing death of Respondent No.3(a) Smt. Shankar Raskar and Respondent No.9A. He would oppose condonation of delay for bringing heirs of Appellant No.1 on record.

5. There is delay of 117 days in filing this Application, for setting aside abatement and consequently for bringing heirs of Appellant No.1 on record.

6. For the reasons stated in paragraph Nos.9 and 10, it would be in the interest of justice to permit the Applicants to bring on record the heirs of deceased Appellant No.1. The matter is old one and needs to be considered on merits. The cause of action survives against heirs of deceased Appellant No.1. It is desirable to condone delay and permit the Applicants to bring on record heirs of the Appellant No.1.

7. So far as the contention of learned counsel for Respondent Nos.3 to 11 is concerned, Appellant is at liberty to take steps against deceased Respondent Nos.3(a) and 9(a). Although, it

is informed that Respondent No.9(a) also passed away, but the memo of First Appeal does not indicate name of Respondent No.9(a). Hence, following order is passed :-

**ORDER**

- I) The delay is condoned and Interim Application is allowed in terms of prayer clause (a) to (c).
- II) Leave is granted to the Appellant to amend memo of the Appeal to the extent of Respondent No.9(a).

**(SHAILESH P BRAHME, J.)**