



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CIVIL APPLICATION (CAS) NO. 157 OF 2024

AND

CIVIL APPLICATION (CAS) NO. 158 OF 2024

IN

SECOND APPEAL NO. 187 OF 2018

Laxmanrao Tulsiramji Tighare(Dead) thr. L.Rs. & Ors.

Vs.

Shyamrao S/o. Tulsiram Tighare

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. D.N. Dani, Advocate for the Appellants.

Mr. C.N. Deshpande, Advocate for the Respondent.

CORAM : G. A. SANAP, J.

DATED : 23rd FEBRUARY, 2024.

. Heard learned advocates for the parties.

2. Civil Application (CAS) No.157/2024 is made for condonation of delay caused in filing an application for setting aside the abatement within limitation and for setting aside the abatement. Civil Application (CAS) No.158/2024 is made for bringing on record the legal heirs of deceased appellant No.2.

3. It is stated that appellant No.2 died on 13th December, 2022. It is stated that the information about death was not provided to the advocate and, therefore, the application could not be made within time.

4. Learned advocate for the sole respondent submits that the delay is inordinate and, therefore, cannot be condoned.

5. I have gone through the record and proceedings. It is seen that the right to sue survives with the applicants after the demise of appellant No.2.

6. In view of the reasons stated in the application, both the applications are **allowed**. The delay of 150 days caused in filing an application for setting aside the abatement is condoned. The abatement of the appeal qua deceased appellant No.2 is set aside. Applicant Nos.1 to 5 are allowed to be brought on record as the legal heirs of deceased appellant No.2.

7. The correction/amendment be carried out in the appeal memo within one week.

8. The applications are disposed of, accordingly.

(G. A. SANAP, J.)

Vijay