



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CIVIL APPLICATION (CAO) NO.33 OF 2024

IN

MCA ST. NO. 18658 OF 2023

IN

FIRST APPEAL ST. NO. 8921 2021 (D)

GULSHERKHA MOHAMMED KHAN (SINCE DEAD) THROUGH HIS LEGAL HEIRS AND
OTHERS

Vrs.

THE STATE OF MAHARASHTRA AND OTHERS

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri N. M. Kolhe, Advocate for applicants/appellants.
Shri M.A.Kadu, AGP for respondent Nos.1 to 3.

CORAM: SANJAY A. DESHMUKH, J.

DATE : 03/12/2024.

1. This is an application for condonation of delay of 56 days caused for filing application for restoration of appeal, which was dismissed for non-removal of office objections.

2. Perused the application.

3. Heard learned Advocates for both sides.

4. Considering the reasons stated in the application, the application deserves to be allowed, in the interest of justice. Delay of 56 days is condoned.

MCA ST. NO. 18658 OF 2023

5. This is an application for restoration of First Appeal, which was dismissed for non-removal of office objections.

6. Learned advocate for the applicants submitted that the applicants could not submit the Succession Certificate, as per the directions of the Registrar (Judicial) dated 27/06/2023. He submits that till today, application for getting Succession Certificate is not filed. This Court while deciding First Appeal No.694/2023 dated 08/08/2024 (Smt.Savitribai w/o Rajhans Ambagade (dead) through Lrs and others Vrs. Superintendent Engineer, MSRDC, Nagpur and others) observed that it is not necessary to obtain Succession Certificate or Heirship Certificate in this case, particularly in pending cases. That issue can be decided as per Order 22 of the Code of Civil Procedure, 1908 by the Court.

7. Considering this aspect, application deserves to be allowed.

8. Application is allowed and disposed of.

FIRST APPEAL ST. NO. 8921 2021

9. Issue notice to the respondents.

10. Shri M.A.Kadu, learned AGP waives service of notice for respondent Nos.1 to 3.

11. Shri Kadu, learned AGP submits that Acquiring Body was not party before the Reference Court and it is also not made party.

12. The appellants are, therefore, directed to amend the appeal memo accordingly and Acquiring Body be added as respondent No.4 in the array of appeal.

13. Amendment be carried out forthwith.

14. After the amendment is carried out and copies are supplied, issue notice to the respondent No.4.
15. Stand over after two weeks.

[SANJAY A. DESHMUKH, J.]

Choulwar