



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

**SECOND APPEAL (ST) NO. 6244 OF 2021**

Mohd. Nazir S/o. Mohd. Amin

Vs.

Shamim Banu W/o. Abdul Jabbar

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

Court's or Judge's Order

-----  
Shri Vivek Awchat h/f. Shri S. N. Bawangad, Advocate for appellant.  
Ms. S. R. Tiwari, Advocate for proposed respondent.

**CORAM :- M. W. CHANDWANI, J.**

**DATED :- 05.07.2024**

**CIVIL APPLICATION (CAS) NO. 539/2024 & 734/2023**

These applications are for condonation of delay in setting aside abatement order and bringing legal heirs of the deceased respondent on record.

2. The contention is that on 17.11.2022, the appellant got knowledge of death of the respondent, when the matter was listed before the Registrar for taking steps. The respondent died on 11.11.2021.

3. The objection of the learned counsel for the proposed legal heirs is that the respondent was residing in the same locality, where the appellant is residing therefore, the appellant is having knowledge of death of the sole respondent.

4. Just because a person residing in the same locality, it cannot be said that he may have knowledge of

death of another person residing in the very same locality. In Civil Application No. 539/2024, it is contended that the appellant has already filed an application for bringing legal heirs of the deceased respondent on record however, he was under bonafide impression that no separate application for setting aside the abatement order is required therefore, it could not be filed. Thus, for the reason mention in application, the delay in filing the application for setting aside abatement and for bringing legal heirs of the deceased respondent on record are condoned.

5. The applications are disposed of accordingly.

**CIVIL APPLICATION (CAS) NO. 538 OF 2024**

6. By the present application, the appellant is seeking to set aside the abatement order. Since, right to sue survives against the legal heirs of the deceased respondent, the application is allowed.

**CIVIL APPLICATION (CAS) NO. 735 OF 2023**

7. This is an application for bringing legal heirs of the deceased respondent on record.

8. For the reason mentioned in application, the application is allowed. The necessary amendment be carried out within two weeks.

9. Stand over after two weeks.

(M. W. CHANDWANI, J.)