

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.**

**943 CIVIL APPLICATION NO. 2646 OF 2022
IN FAST/477/2020**

Damodhar Narayan Kanakdande And Ors

VERSUS

The State Of Maharashtra And Ors

...

Ms. Angha Pandit h/f Mr. Kiran M. Nagarkar - Advocate for Applicants

Mr. R. D. Raut - AGP for the State

Mr. Vinesh C. Solshe – Advocate for Respondent No. 3

...

AND

**CIVIL APPLICATION NO. 2477 OF 2022
IN FAST/477/2020**

Damodhar Narayan Kanakdande And Ors

VERSUS

The State Of Maharashtra And Ors

...

Ms. Angha Pandit h/f Mr. Kiran M. Nagarkar - Advocate for Applicants

Mr. R. D. Raut - AGP for the State

Mr. Vinesh C. Solshe – Advocate for Respondent No. 3

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CORAM : NEERAJ P. DHOTE, J.

DATED : 08TH APRIL 2025

PER COURT : -

1. This is an Application for bringing on record the legal heirs of Applicant No. 2 – Balkrishna s/o Narayanrao Kanakdande.

2. It is submitted by the learned Advocate for the Applicants, who are the widow and the son of deceased – Balkrishna, that the Reference was preferred by one Damodhar Narayan Kanakdande and

deceased – Balkrishna s/o Narayanrao Kanakdande. She submits that, Damodhar, who is the real brother of deceased – Balkrishna was already on record when the Judgment and Award was passed. She submits that, therefore, the impugned Judgment and Award will not be a nullity in law. She cites a judgment in **Jayarama Reddy & Anr. v. Revenue Divisional Officer & Land Acquisition Officer, Kurnool, (1979) 3 SCC 578**, and relies on paragraph nos. 39 and 40. She submits that the Application be allowed.

3. There is no dispute that the claim was filed by the two claimants i.e. Brother of the Deceased and the Deceased. Deceased was Claimant No. 2. He died before the Award was passed. However, the Claimant No. 1, the real brother of the Deceased was on record. Now this Application by the widow and the son of the Deceased / Claimant No. 2 for bringing them on record.

4. There is a delay of 2973 days in filing the Application. The Appeal preferred by the Original Claimant No. 1 – Damodhar and the LRs of Deceased / Claimant No. 2 – Balkrishna, is on stamp number as there is separate Civil Application No. 2477 of 2022 for condonation of 1490 days delay caused in preferring the First Appeal. The said Application is filed by the original Claimant No. 1 – Damodhar and the legal heirs of Deceased / Claimant No. 2 – Balkrishna. The learned AGP

appears for Respondent Nos. 1 and 2 and Mr. V. N. Solshe appears for Respondent No. 3.

5. Since the real brother of the Deceased Balkrishna / Claimant No. 2 was already on record when the Judgment and Award was passed, it cannot be said that the entire Award was a nullity. A copy of the Death Certificate and the Certificate issued by the Grampanchayat under the signature of the Gramsevak, Police Patil and the Sarpanch is enclosed with the Application showing the Applicants Pratibha and Mahindra as the widow and the son of the Deceased – Balkrishna, respectively. Advocate for the Applicants undertakes to place on record an appropriate certificate issued by the Competent Court showing the Applicants as the legal heirs of Deceased – Balkrishna.

6. In this view of the matter, for the reasons stated in the Applications, both the Applications are allowed in terms of prayer clauses 'B' and 'C' thereof.

7. The Applicants shall not entitled to interest and statutory benefits for the delayed period that has been caused in preferring the Appeal. A copy of this order be kept along with the Appeal memo of this matter.

[NEERAJ P. DHOTE]
JUDGE