



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

**CIVIL APPLICATION NO. 8684 OF 2025
IN
SECOND APPEAL STAMP NO. 1033 OF 2025**

Usmanali S/o Husainali Kazi
Since deceased Through His Lrs
Maidabi Usmanali Kazi and others .. Applicants

Versus

Sadikali S/o Ahemadali Kazi .. Respondent

Shri Ramrao D. Biradar, Advocate for the Applicants.
Shri S. V. Natu, Advocate for the Respondent.

**CORAM : SHAILESH P. BRAHME, J.
DATE : 21ST AUGUST, 2025.**

FINAL ORDER :

. Present application is for condonation of delay, setting aside abatement and bringing heirs of the applicant No. 1 – Usmanali Hussainali Kazi on record.

2. Applicant Nos. 2.1 to 2.8 as shown in the title cause are heirs of deceased Usmanali. It is contended that the cause of action survives against them and they are necessary parties.

3. As against that Mr. S. V. Natu, learned counsel for the respondent informs that when the matter was in the lower Appellate Court a pursis was submitted on 13.01.2022, a copy of

which is tendered on record, which is marked as Exhibit – X. In pursuance of the pursis, applicant Nos. 2.1 to 2.5 who were already on record, were treated to be legal heirs of Usmanali Hussainali Kazi. He would further submit that due to representation of the lawyer of then appellant No. 3 as mentioned in the pursis wife and sons were treated to be heirs.

4. Applicant Nos. 2.6 to 2.8 are the daughters of the deceased Usmanali, who were not shown to be legal heirs in the lower appellate Court. Their status as heirs cannot be disputed at this juncture. Keeping the point open as to whether they can prosecute second appeal or not, I propose to allow the application. The civil application is allowed in terms of prayer clauses 'A' and 'B'. The civil application is disposed of.

5. Amendment to be carried out within a period of two (02) weeks from today.

[SHAILESH P. BRAHME J.]

bsb/Aug. 25