



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

**942 CIVIL APPLICATION NO. 1066 OF 2025
IN SA/159/1999**

**TUKARAM NIVARTI CHAVAN AND OTHERS
VERSUS
BHAGIRTHIBAI NIVARTI KADAM (BANDE)
L.RS. DNYANOBA NIVARTI KADAM**

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Advocate for the Applicants: Mr.Tungar Hrishikesh V.
Advocate for Respondent Nos. 1 and 3 : Mr. R.B.Deshmukh

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CORAM : SHAILESH P. BRAHME, J.
DATE : 27th JUNE 2025

PER COURT :

. Heard both sides.

2. Present application is for condonation of delay, setting aside abatement and bringing heirs of deceased Respondent No.1/Bhagirathibai and Respondent No.3/Nivarti on record. It is contended that Respondent No.1-A is the only legal heir of both the deceased respondents. Applicants did not receive any intimation under Order 22 Rule 10 of C.P.C. There is no intentional delay in preferring the application.

3. Learned counsel for the respondents opposes the application. He would submit that there is huge delay which is unexplained.

4. On the grounds mentioned in the application for condonation

of delay and relations *inter alia* have not been disputed. There is nothing on the record to show that Respondent No.1-A proposed heir undertook the statutory procedure under Order 22 Rule 10 of C.P.C. There is reason to infer that applicants were not aware of the death. Cause of action survives against the proposed legal heir.

5. Civil application is allowed in terms of prayer clause 'B', 'C' and 'D'.

[SHAILESH P BRAHME, J.]

vsj..