



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 2218 OF 2021
IN WP/3440/2006

Shamrao Bhaga Bhoi Deceased Thr Lrs Meerabai Shamrao Bhoi

VERSUS

Jagdeesh Hiralal Agrawal Deceased Thr Lrs Kaushal Jagdeesh
Agrawal

Mr. M.N. Navandar, Advocate for Applicant

Mr. Sumit Agrawal, Advocate for respondents No. 1 to 3

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CORAM : MANJUSHA DESHPANDE, J.

DATE : 11th FEBRUARY, 2025

ORDER :

1. Learned advocate Shri. Sumit Agrawal submits that though remark on the board shows that notice issued to respondent No. 1 to 3 are awaited as they are not residing on given address, however, he has instructions to cause appearance on behalf of respondents No. 1 to 3 and he has already filed his vakalatnama. Therefore, the service is complete.

2. This civil application is filed for bringing legal representatives of petitioner as well as respondent on record. The petitioner has expired on 25.02.2016 and he is survived by legal heirs, whose details are mentioned in para 9 of the

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application. The sole respondent has expired on 05.10.2015 and he is survived by legal heirs, whose details are given in para 10 of the application.

3. It is the contention of the applicants that their father is fisherman. They are illiterate and they are unaware about the pending proceeding in this Court. When bailiff of Civil Court, Parola enquired with them about status of pending proceeding, they came to know about the pendency of proceeding before this Court. Considering the explanation given in para 5 as regards delay in bringing legal heirs of petitioner on record, the delay is satisfactorily explained.

4. So far as delay in bringing legal heirs of respondent is concerned, it is from the legal heirs of petitioner they came to know about death of respondent. Hence, combine application has been filed by applicant for bringing legal heirs of petitioner as well as respondent on record.

5. Learned advocate for the respondent has taken objection on the ground that legal heirs of petitioner were aware about death of respondent, in spite of that he has prolonged the proceeding since they are tenant of the suit premises and stay is

operating in their favour. In that regard he places reliance on judgment of Hon'ble Supreme Court in the case of ***Puran Singh vs. State of Punjab***, 1996 DGLS(SC) 138. In the same judgment it is also observed that in case of absence of reasonable and satisfactory explanation the delay cannot be condoned. But in the present case considering the satisfactory explanation given by the applicant, the case law cannot be made applicable to the present case.

6. Considering the explanation given by applicant for delay in bringing legal heirs of petitioner as well as respondent on record, civil application is allowed in terms of prayer clause 'B' to 'G', subject to payment of cost of Rs. 5,000/- to the respondents.

7. Amendment to be carried out within two weeks from today.

8. Civil Application stands disposed of.

(MANJUSHA DESHPANDE, J.)