



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 2748 OF 2025
IN
SECOND APPEAL NO. 322 OF 1995

Sayabai Vikram Baviskar
(Died) Through her sole L.R.
Madhukar Vikram Baviskar

..APPLICANT

VERSUS

Durgabai Ramdas Sapkale and Others

..RESPONDENTS

....
Mr. R.F. Totala, Advocate for the applicant
Mr. S.V. Dixit, Advocate h/f Mr. V.J. Dixit, Advocate for respondent nos.1 to 6
....

CORAM : ABHAY J. MANTRI, J.
DATE : 25th SEPTEMBER, 2025

PER COURT :

1. The applicant, legal representative of the original appellant, has moved this application to condone the delay in filing the application for setting aside the abatement order of the sole appellant, for setting aside the abatement order, as well as for bringing his name on record.
2. Learned counsel for the applicant also submitted that he has served notice of the application on the other side. Despite the service of notice, none appear on their behalf.
3. Learned counsel for the Respondent Nos. 1 to 6 formally objected to the application.

4. Perused the application and record. It appears that in the year 1995, by order dated 24th August, 1995, the second appeal was admitted, and it was pending for final hearing. Therefore, the original appellant could not contact the learned counsel. During the pendency of the appeal, on 16th September 2004, the original appellant expired. However, the said fact came to the knowledge of learned counsel for the applicant for the first time on 22nd February, 2025, and thereafter he has filed this application.

5. Having considered the reasons disclosed in the application, in the interest of justice, I deem it appropriate to condone the delay in filing the application for setting aside the abatement order, set aside the abatement order, if any, passed, and to bring the name of the applicant /legal representative of the original appellant on record.

6. In view of the above, the civil application is allowed as prayed for. The applicant is to carry out the amendment in the second appeal within a week and supply a copy of the amended memo to the respondents within one week thereafter, failing which the second appeal shall stand dismissed without reference to the Court. List the second appeal on 09th October, 2025.

(ABHAY J. MANTRI, J.)

SSD