



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 2247 OF 2025
IN SAST/26288/2024

Dhondiram Bapu Lute Died Through Lrs Dhropadabai
Dhondiram Lute And Ors

VERSUS

Baburao Kashinath Mahapure

WITH

CIVIL APPLICATION NO. 1945 OF 2025
IN SAST/26288/2024

Dhondiram Bapu Lute Died Through Lrs Dhropadabai
Dhondiram Lute And Ors

VERSUS

Baburao Kashinath Mahapure

- Mr. S. K. Chavan, Advocate for the Applicant
- Mr. S. S. Kulkarni, Advocate for the Respondent

CORAM : R. M. JOSHI, J
DATE : AUGUST 04, 2025

PER COURT :

1. At the outset, learned Counsel for the Respondent files reply. The same is taken on record.

2. Civil Application No. 1945/2025 is for condonation of delay of 513 days in filing Second Appeal against judgment and order dated 07.12.2022 passed in RCA No. 4/2016.

3. Civil Application No. 2247/2025 is filed to

bring on record the LR's of deceased Original Appellant before the First Appellate Court.

4. Learned Counsel for the Applicants submits that in peculiar facts of the case, after the proceedings of RCA No.4/2016 was reserved for judgment, Appellant died. This fact could not be brought on record, as a result of which, the judgment and decree passed by the First Appellate Court dated 07.12.2022 could not be assailed in time. He, therefore, prays that both Applications be allowed.

5. Learned Counsel for Respondent resisted both Applications on the ground that unless reasonable cause is shown for condonation of delay, it could not be allowed.

6. There is peculiar fact, which indicates that original Appellant in RCA No. 4/2016 contested the said Appeal. However, when the Appeal was reserved for judgment, he died. This Court, therefore, finds substance in the contention of learned Counsel for the Applicants that on account of death of the Appellant, Appeal could not be filed in time challenging the

impugned judgment and decree.

7. Since the issue of removal of encroachment is raised, it is in the interest of parties to decide the Appeal on merit rather than dismissing the same on technicalities. In view of this, Applications are allowed subject to payment of cost of Rs. 2000/- to the Bombay High Court Advocate Association Library, Bench at Aurangabad within a week.

8. Amendment be carried out within two weeks.

9. Appeal be registered.

(R. M. JOSHI, J.)