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

**CIVIL APPLICATION NO. 12378 OF 2024
IN SA/370/2024**

**SHARIFABEE HANIF SHAIKH AND ORS
VERSUS
NOORBEE AJMTKHA PATHAN AND ORS**

....

Mr S. S. Gangakhedkar, Advocate for applicants
Mr K. R. Doke, Advocate for respondent Nos.2 to 8

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : 16th July, 2025

PER COURT:

1. Leave is granted to learned counsel for the applicants to carry out correction in memo of the application.
2. This is an application for bringing on record and substituting the names of legal representatives of deceased appellant No.2-C viz. Ayub Mehahabub Pathan by condoning delay of 1004 days.
3. Advocate Mr Gangakhedkar, learned counsel for the applicants/appellants submits that the cause of action to conduct the appeal survives and the legal representatives of deceased appellant No.2-C may be permitted to be brought on record so that the matter

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can be contested on merits. He submits that appellant No.2-C has expired on 07/09/2020 and his legal representatives could not be brought on record. He submits that some time was consumed during the process of Covid-19 pandemic and by applying the relaxation granted by the Hon'ble Supreme Court, there is no delay from the date of knowledge. However, he states that if the entire period of delay is taken into consideration, delay of 1004 days has occurred on account of lack of knowledge of applicant for taking immediate steps. He further submits that the delay is not intentional and the legal representatives need to be substituted for contesting the matter on merits.

4. Advocate Mr Doke appearing for respondent Nos.2 to 8 strongly opposes the application and states that there is no sufficient cause mentioned in the application. He submits that, even if the period of Covid-19 is taken into consideration, the delay is not explained properly.

5. Having regard to the contentions mentioned in the civil application and submission advanced, it has to be seen that the other appellants are already on record, who are contesting the appeal and the legal representatives of appellant No.2-C also need to be allowed to

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contest the appeal, since cause of action survives. As such, delay of 1004 days needs to be condoned in the interest of justice.

6. In view of the above, the delay is condoned, subject to costs of Rs.5,000/- to be paid by the applicant to respondent Nos.2 to 8 within a period of two week from today.

7. The civil application is allowed and disposed of. Names of the legal representatives of appellant No.2-C be substituted by carrying out necessary amendment within a period of two weeks from today.

(PRAFULLA S. KHUBALKAR, J.)

sjk