



(1)

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

**954 CIVIL APPLICATION NO. 13866 OF 2024
IN FA/2192/2023**

**LATE MADHUKAR VISHWANATH JOSHI, THR LRS UJJAWALA
AND ORS**

VERSUS

**THE SPECIAL LAND ACQUISITION OFFICER, MINOR
IRRIGATION JALGAON AND ANR**

....

Mr M. M. Bhokarikar, Advocate for applicants
Mr K. N. Lokhande, A.G.P. for respondent No.1
Mr S. S. Chillarge, Advocate for respondent No.2

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : 4th July, 2025

PER COURT:

1. Heard Advocate Mr Bhokarikar, learned counsel for the applicants, learned A.G.P. appearing for respondent No.1 and Advocate Mr Chillarge, learned counsel for respondent No.2.

2 This is a composite application filed by the legal representatives of the sole appellant for setting aside abatement on account of non-bringing the legal representatives on record, by condoning the delay of 2610 days and for substitution of their names by condoning the delay of 1670 days for filing the application.

(2)

3. Learned counsel for the applicants submits that the sole appellant/Madhukar Vishwanath Joshi died on 31/01/2020 and since the legal representatives were not brought on record the appeal stood abated against him. He submits that, since the legal representatives were not aware about the need to take immediate steps for substitution of their names due to their illiteracy, the application for setting aside the abatement could not be filed immediately. He further submits that the delay of 1670 days occurred on account of reasons mentioned in paragraph Nos.5(a) to 5(f) of the civil application, and the delay of 2610 days occurred in preferring the application for setting aside the abatement may be condoned in the interest of justice.

4. Learned A.G.P. and learned Advocate Mr Chillarge, learned counsel for respondent No.2 oppose the application and submit that the delay is inordinate and the reasons mentioned in the application are not sufficient.

5. Considering the reasons mentioned in the civil application, particularly paragraph Nos.5(a) to 5(f) and the submissions advanced, it appears that the delay is not intentional. Since the cause of action survives and for enabling decision of appeal on merits, the legal representatives need to be permitted to be brought on record, in the interest of justice.

(3)

6. Hence, in the interest of justice, the delay of 2610 days in filing application for setting aside abatement is condoned, subject to costs of Rs.2,500/- to be deposited by the applicants with the Advocate Association's Bar Library, High Court, Aurangabad, within a period of two weeks from today. Abatement is set aside.

7. Further delay of 1670 days in preferring application for bringing on record the legal representatives of the sole appellant is condoned, subject to costs of Rs.1,500/- to be deposited by the applicants with the Advocate Association's Bar Library, High Court, Aurangabad, within a period of two weeks from today. The names of the legal representatives of deceased sole appellant be substituted within a period of two weeks from today.

8. The Civil Application is disposed of.

(PRAFULLA S. KHUBALKAR, J.)

sjk