



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

921 CIVIL APPLICATION NO. 582 OF 2025
IN FIRST APPEAL NO. 2198 OF 2021

WITH
CIVIL APPLICATION NO. 10357 OF 2021 IN FA/2198/2021
WITH
CIVIL APPLICATION NO. 12001 OF 2024 IN FA/2198/2021

PANDHARINATH TANHU RAHANE (DEID) THROUGH L.RS. RAHIBAI
AND ANOTHER

VERSUS

THE STATE OF MAHARASHTRA THROUGH THE COLLECTOR
AURANGABAD AND OTHERS

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Mr. Pradeep M. Janapurkar – Advocate for Applicants
Mr. Dnyaneshwar J. Patil – AGP for Respondent Nos.1 and 2, State
Mr. B.R. Surwase – Advocate for Respondent No.3

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CORAM : SANJAY A. DESHMUKH, J.

DATE : 16th JANUARY, 2025

PER COURT :

CIVIL APPLICATION NO. 12001 OF 2024

1. This is an application filed for bringing the legal representatives of deceased applicant No.1 on record by condoning the delay of 319 days caused in filing this application.
2. Heard learned advocate for the applicants, learned A.GP for respondent Nos.1 and 2 and learned advocate for respondent No.3.
3. Leraned advocate for the respondent No.3 strongly opposes the

application. He submits that, there is no sufficient grounds to allow this application, as contemplated under Section 5 of the Limitation Act. He lastly prayed to reject the application.

4. Learned advocate for the applicants submits that, the applicants are poor agriculturists and they do not have any knowledge of proceeding. Therefore, they did not provide death certificate. He therefore submits that, the delay is not caused deliberately by the applicants therefore the delay needs to be condoned and permission for bringing the legal representatives of the deceased applicant No.1 on record alongwith setting aside the abatement be granted.

5. Perused the application. Considering the reasons stated in the application, it appears that the delay is not deliberately caused. The applicants are agriculturists and illiterate persons. In view of all these reasons and as the lis be decided on merit, the delay deserves to be condoned. The abatement also deserves to be set aside. The application is therefore allowed and disposed of accordingly.

6. Necessary amendment be carried out in appeal memo as well as other applications within one week from today.

CIVIL APPLICATION NO. 10357 OF 2021

7. Learned advocates for applicant and the respondents submit that, the entire amount as per directions of the Court is deposited in this Court. The application has become infructuous. Therefore, the application stands disposed of.

CIVIL APPLICATION NO. 582 OF 2025

8. Heard the parties.

9. This application is filed for withdrawal of amount deposited by the State of Maharashtra in the office of this Court.

10. Learned advocate for the applicants relied upon the order passed by this Court in Civil Application No.9366 of 2024 in First Appeal No. 4770 of 2023 dated 10.10.2024. In view of the above, this Court is inclined to pass following order :

ORDER

(a) The application stands allowed and disposed of.

(b) The applicants are permitted to withdraw 50% of the amount deposited alongwith accrued interest in the office of this Court on furnishing usual undertaking.

(c) Further, 25% amount is permitted to be withdrawn alongwith interest accrued thereon on furnishing solvent surety/security to the satisfaction of the Registrar (Judicial) of this Court.

(d) Remaining amount be deposited in Fixed Deposit in any nationalized bank and it be renewed from time to time till final disposal of the main appeal or further order.

[SANJAY A. DESHMUKH]
JUDGE