



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 3225 OF 2025
IN SA/172/2019

THOIDE ALIAS THEODORE PRATAPCHAND BHAMBAL L.RS.
SUREKHA THOIDE AND OTHERS

VERSUS

RAJESH ALIAS GANANAN NISHIKANT DANDNAIK

...

Mr. Amol K. Gawali, Advocate for Applicants.

Mr. Sanjay N. Gaikwad h/f Mr. Niteen V. Gaware, Advocate for Respondent.

...

CORAM : S. G. CHAPALGAONKAR, J.
DATED : 25th APRIL, 2025.

P.C.:-

1. Heard learned Advocates appearing for respective parties.
 2. By this application, applicants seek permission to bring on record legal representatives of deceased Thoide @ Theodore Pratapchand Bhambal i.e. appellant. There has been delay of 413 days in filing this application.
 3. Perusal of application shows that learned Advocate representing appellant could not establish contact with legal representatives of deceased. Due to such communication gap, delay has been occasioned.
 4. The learned Advocate appearing for respondent vehemently opposes application by filing affidavit-in-reply. Relying upon law laid down by Supreme Court of India in case of *Esha Bhattacharjee Vs. Managing Committee of Raghunathpur Nafar Academy and other¹*, he submits that in absence of sufficient cause, delay cannot be condoned. If lack of bonafides
- ¹ (2013) 12 SCC 649.

imputed against parties seeking condonation of delay, same needs to be rejected. According to him, provisions of Limitation Act needs to be given full effect and sympathy cannot take place.

5. There cannot be dispute as to preposition of law espoused by Supreme Court. However, facts of each case are different and general principle enunciated in aforesaid judgment required to be applied accordingly. In present case, it can be gathered that delay is mainly occasioned because of communication gap between Advocate, who was representing sole appellant and legal representatives. No malafides are shown in making delay. There is nothing to discern that applicants have derived any advantage by making such delay.

6. In these circumstances, it is desirable to condone delay. At the same time, inconvenience cause to respondent needs to be compensated by awarding appropriate cost. In result, Civil Application is **allowed** in terms of prayer Clauses (A), (B) and (C) subject to condition that applicants pay cost of Rs.3000/- to respondent through his Advocate within a period of eight weeks from today.

(S. G. CHAPALGAONKAR)
JUDGE