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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

957 SECOND APPEAL NO. 8 OF 2024

TEJRAO S/O PUNDLIK CHATHE AND ANOTHER
VERSUS
DAMODHAR NAMDEO BHIVSANE DIED THROUGH LRS LEELAWATI
DAMODHAR BHIVSANE AND OTHERS

WITH
CIVIL APPLICATION NO. 1018 OF 2024
IN SA/8/2024

TEJRAO S/O PUNDLIK CHATHE AND ANOTHER
VERSUS
DAMODHAR NAMDEO BHIVSANE DIED THROUGH LRS LEELAWATI
DAMODHAR BHIVSANE AND OTHERS

WITH
CIVIL APPLICATION NO. 6024 OF 2024
IN SA/8/2024

TEJRAO PUNDLIK CHATHE
VERSUS
DAMODHAR NAMDEO BHIVSANE DIED THROUGH LRS

Mr.H.V.Tungar h/f Mr.C.C.Deshpande, Advocate for the appellants.
Mr.V.S.Palsikar, AGP for the respondent/State.

(CORAM : PRAFULLA S. KHUBALKAR, J.)

DATE : MAY 2, 2025

PER COURT :

1. CA No.6924/2024 is filed for setting aside abetment of

second appeal and condonation of delay of 1150 days and to bring on record LR's of deceased respondent No.2-B. Notices were sent to the proposed LR's of respondent No.2-B and served through respondent No.2-B/1 as a natural guardian and appearance is also filed on their behalf. By order dated 07.04.2025, one more opportunity was granted to the proposed LR's of respondent No.2-B, however, today nobody appears on their behalf. The learned Advocate for the applicant submits that the deceased respondent No.2-B has died during the pendency of the first appeal itself and the LR's were not brought on record and the applicant had no knowledge about the death of respondent No.2-B and on account of this, the delay occurred. He submits that the delay of 1150 days occurred on account of the reasons mentioned in paragraph No.4 of the civil application. He submits that the delay is not intentional and there is a sufficient cause to condone the delay.

2. For the reasons mentioned in the civil application, he requests for setting aside of abetment, condonation of delay and bringing on record the LR's of respondent No.2-B.

3. Having considered the submissions and reasons stated in the civil application, the delay is condoned by setting aside the abetment. The applicant is permitted to bring on record the names of LR's of respondent No.2-B. Amendment to be carried out within 2 weeks from today. Record reveals that the notices were issued to the LR's of deceased respondent No.2-B only on CA No.6024/2024.

SECOND APPEAL NO.08/2024

4. The second appeal is already admitted. In view of the orders permitting to bring on record LR's of deceased Respondent No.2-B, it is in the interest of justice to issue notice to the LR's of deceased respondent No.2-B on merits of the second appeal.

5. In view of this, issue 'notice on merit' to the legal representatives of deceased respondent No.2-B, returnable on 11.07.2025.

6. The learned Advocate for the appellants as well as the contesting respondent requests for calling of the R & P from the Trial Court as well as Appellate Court. Call for R & P

(PRAFULLA S. KHUBALKAR, J.)