

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 7953 OF 2023.

IN

FIRST APPEAL NO. 948 OF 2014.

Vishnu Daayanand Garad (Deceased) Thr. Lrs. ...Applicant.
Hanumant @ Amol Vishnu Garad

Versus

State Of Maharashtra And Ors ...Respondents.

Mr. Vijay Garad and Payal Yadav for the Applicant.

Mr. A. R. Patil AGP for the State.

Coram : Sharmila U. Deshmukh, J.

Date : February 10, 2025.

P. C. :

1. Interim Application has been preferred for bringing on record the legal heirs of the deceased Appellant No. 1.
2. Learned Counsel appearing for the Applicant submits that the First Appeal came to be filed challenging the Judgment passed in L.A.R. No. 705 of 2002 dated 7th August, 2010. He submits that the First Appeal was listed on board of the Registrar on 12th June, 2017 where conditional order was passed and as printing charges were not paid, the first appeal came to be dismissed. He submits that subsequently on 30th November, 2017 the Appellant No. 1 expired and the legal heirs were not aware of the appeal which was preferred before this Court. He submits that thereafter steps were taken for restoration of the First Appeal and the present Application came to be filed for bringing legal

heirs on record.

3. Mr. Patil, learned AGP does not seriously oppose the Application considering that the proceedings arise out of land acquisition proceeding.

4. The explanation tendered in the Application is that by virtue of conditional order passed in 2017 for non payment of the printing charges, the appeal came to be dismissed which was not informed by the earlier advocate to the Applicant.

5. In the meantime, the Appellant No. 1 expired on 30th November, 2017 and the legal heirs were not aware of the filing of the appeal and that application had to be filed for bringing legal heirs on record. The proceedings arise out of land acquisition proceedings and the Applicants are agriculturist and it is not expected that they would be well aware of the legal procedure.

6. Considering that as the Appeal came to be dismissed and no information was forthcoming from the advocate for the Applicant, the legal heirs would not be aware of the procedure to be adopted for bringing legal heirs on record. There is sufficient explanation for the delay in bringing the legal heirs on record.

7. Resultantly, the Interim Application is allowed. Abatement is set aside by condoning the delay.

[Sharmila U. Deshmukh, J.]