

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 7023 OF 2024.

IN

FIRST APPEAL NO. 1522 OF 2013.

The Chief Officer, Rahimatpur Municipal Council,
Rahimatpur

...Applicant.

Versus

Isak Gulab Mulla
(since deceased, through LRs) and Others

...Respondents.

Mr. R. M. Pethe for Appellant.

*Mr. Siddhesh Pilankar, Ms. Sakshi Inamdar i/b Dr. Uday Warunjikar for
Respondent in FA No. 1522 of 2013, 1523 of 2013 and 1524 of 2013.*

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

Mr. Ketan Arvind Chothani for Applicants in IA No. 1430 of 2025.

Coram : Sharmila U. Deshmukh, J.

Date : 4th February, 2025.

P. C. :

1. Interim Application has been preferred for bringing on record the legal heirs of deceased-Respondent No. 1 and for condoning the delay of 1 year and 316 days caused in preferring the present Interim Application and for setting aside the abatement.
2. Learned counsel appearing for Applicant would submit that the Appeal, which was of 2013 was admitted and was pending for final hearing. He submits that when the matter was listed on the Board in the year 2021 for 'directions/final hearing', Advocate for Applicant was

informed that some of the Respondents have expired and therefore, after taking necessary information, the present Application has been filed.

3. Learned counsel appearing for proposed Respondents would oppose the Application and would submit that there is no explanation for condoning the delay of 1 year and 316 days.

4. From the pleadings in the Application and from the submissions, it is evident that Advocate of Appellant were not informed about the death of Respondent No. 1 and therefore, Applicant who is the Municipal Council cannot be expected to be aware of death of Respondent No. 1, so as to take timely steps.

5. It is also not disputed that Advocate for Respondents did not inform the Advocate for Applicant about the death of Respondent No. 1 and therefore, as soon as Advocate for Applicant acquired knowledge, the Application has been filed. As such sufficient explanation is set out for condoning the delay.

6. In light of the above, Interim Application is allowed. Abatement is set aside by condoning the delay.

7. Amendment to be carried out within a period of 3 weeks from today.

[Sharmila U. Deshmukh, J.]