



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 714 OF 2025

IN

FIRST APPEAL NO. 39 OF 2024

Gulab Jayaram Gaikar
Since deceased Thr. LRs. and Others. ...Applicants.

In the matter between :

Gulab Jayaram Gaikar. ...Appellant.

Versus

Vijay Narayan Patil and Others. ...Respondents.

Mr. Sandip S. Sharma for the Applicant.

Mr. Rajesh Revankar i/b A. G. Revankar for the Respondents.

Coram : Sharmila U. Deshmukh, J.

Date : January 20, 2025.

P. C. :

1. At the outset, learned Counsel appearing for the Applicant seeks leave to amend the Interim Application to incorporate the prayer for setting aside abatement. Leave granted. Amendment to be carried out forthwith. Re-verification is dispensed with.
2. Interim Application has been preferred for bringing on record the legal heirs of deceased Appellant and for condonation of delay of 46 days caused in preferring the present Application and setting aside abatement.
3. Learned Counsel appearing for the Applicant submits that the present Appeal has been filed against the suit which was filed in the

year 2009 and during the pendency of present Appeal, the Appellant has passed away. He submits that the Applicants are children of deceased Appellant and immediate steps could not be taken as family was in trauma. He submits that there is sufficient explanation for setting aside abatement and for condonation of delay of 46 days.

4. Learned Counsel appearing for the Respondent would oppose the Application and submit that the Applicants were well aware of the pendency of present proceedings and there is no sufficient explanation for delay.

5. Paragraph 3 of the Application pleads that after the demise of original Appellant, immediate steps could not be taken as the Applicant No.1's husband had also passed away and before they could recover from trauma, her mother fell ill and she too passed away and due to traumatic situation substantial period elapsed.

6. The explanation tendered in the Application is sufficient for condoning delay of 40 days after the expiry of statutory period of 90 days for setting aside abatement

7. In the light of above, interim Application is allowed. Amendment to be carried out within a period of two weeks from today.

8. List the First Appeal for Admission on **10th February 2025**.

[Sharmila U. Deshmukh, J.]