

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 986 OF 2025

IN

FIRST APPEAL NO. 620 OF 2013.

Mohanbhai Magan

...Applicant.

In the matter between :

Magan alias Maganlal Vira and Others

...Appellant.

Versus

Rasik Bica and Others

...Respondents.

Mr. Mehul Shah, Mr. Dhvani Sheth for Appellant.
None for proposed Respondent.

Coram : Sharmila U. Deshmukh, J.

Date : 17th February, 2025.

P. C. :

1. Interim Application has been preferred for bringing on record the legal heirs of deceased-Respondent No. 5 and for condonation of delay of 137 days caused in preferring the present Interim application. The Court notice issued to proposed Respondents is yet to be received.
2. Learned counsel appearing for Applicant has filed Affidavit-of-service evidencing the service of private notice upon proposed respondents. The tracking report shows that notice was delivered on 1st February, 2025.

3. Today, none appears for proposed Respondent.
4. Learned counsel appearing for Applicant submits that during the pendency of First Appeal, which is of 2013, Respondent No. 5 expired. He submits that the Applicant was not aware about the legal procedure for bringing on record the legal heirs and therefore, there is delay of 137 days.
5. The reasons stated in Paragraph No. 5 of the Application is that Applicant was not aware about the procedure that the legal heirs of deceased-Respondent No. 5 are required to be brought on record. The reason is an acceptable explanation for delay of 137 days particularly, when it is not demonstrated that the Advocate for Applicant was intimated about death of Respondent No. 5 for taking necessary steps.
6. For the reasons stated, delay stands condoned.
7. Interim Application is allowed.
8. Amendment to be carried out within a period of three weeks from today.

[Sharmila U. Deshmukh, J.]