

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.1648 OF 2025

IN

CIVIL REVISION APPLICATION NO.45 OF 2012

Suresh Vithoba Bijam	...Applicant
<i>Versus</i>	
Kissundevi Nathiram Dhobhi	...Respondent
AND	
Ravindra Nathiram Dhobi @ Kanojia & Ors.	...Proposed Respondents

In the matter between :

Suresh Vithoba Bijam	...Applicant
<i>Versus</i>	
Kissundevi Nathiram Dhobhi	...Respondent

None for Applicant.

Ms. Shreya Tiwari a/w Ms. Lakshita Fatnani i/by D.R.Tiwari,
Advocate for Respondents.

CORAM: MADHAV J. JAMDAR, J.

DATED : 5th March 2025

P.C.:

1. The Interim Application is taken out for bringing on record heirs of deceased sole Respondent and for condonation of delay in filing the application.

2. The sole Respondent has passed away on 16th October 2023. The learned Advocate for the Respondent by letter dated 11th July

2024, served on the learned Advocate for the Petitioner on 15th July 2024, informed the learned Advocate for the Applicant about the death of the Respondent and also by said letter communicated the details of names and addresses of legal heirs of the sole Respondent. The present Application has been filed on 17th October 2024 i.e. almost within a period of three months.

3. Ms. Shreya Tiwari, learned Counsel for the Respondent strongly opposes the application. She relies on the decision of the Supreme Court in the case of **Balwant Singh (Dead) V. Jagdish Singh & Ors.**¹, as also another decision of the Supreme Court in the case of **Nitin Mahadeo Jawale & Ors. V. Bhaskar Mahadeo Mutke**².

4. As far as Balwant Singh (supra) is concerned, she relied on paragraph No.29, wherein the Supreme Court has by relying on the Judgment of Madras High Court in the case of **Ramlal V. Rewa Coalfields Ltd**, wherein, the Madras High Court has held that even after sufficient cause has been shown a party is not entitled to the condonation of delay in question as a matter of right. The proof of

¹ (2010) 8 SCC 685

² Petition for Special Leave to Appeal (Civil)... of 2024
arising out of Diary No.25784 of 2024.

a sufficient cause is a condition precedent for the exercise of the discretionary jurisdiction vested in the court by Section 5. It has been further held that if sufficient cause is not proved nothing further has to be done and the application for condoning delay has to be dismissed on that ground alone. She also relied on paragraph Nos. 6, 7 and 8 of the Judgment in **Nitin Mahadeo (supra)**, wherein the Supreme Court has observed that the litigant should not be permitted to throw the entire blame on the head of the Advocate and thereby disown him at any time and seek relief.

5. In the present case, the sole Respondent has passed away on 16th October 2023. The learned Advocate of the Respondent informed the same to the learned Advocate for the Applicant by letter dated 11th July 2024 which has been received by the learned Advocate for the Applicant on 18th July 2024. Thereafter immediately on 17th October 2022, the present Application has been filed. Thus, from the receipt of communication from the learned Advocate for the Respondent, learned Advocate for the Applicant has taken prompt steps. Accordingly, the decisions of the Supreme Court will not apply to the present case.

6. For the above reasons, the Interim Application is allowed in terms of prayer clauses (a), (b) and (c).

7. Amendment be carried out within four weeks from today. Amended copy be served on the Respondents within 14 days thereafter.

8. Accordingly, the Interim Application is disposed of in above terms with no order as to costs.

9. It is clarified that the benefit of Order dated 14th November 2014 passed by a learned Single Judge in Civil Application No. 638 of 2012 in CRA No. 44 of 2012 with Civil Application No. 639 of 2012 in CRA No. 45 of 2012, permitting withdrawal of the amount, which has been deposited by the Applicant is also available to the legal heirs of the Respondent.

BHALCHANDRA
GOPAL
DUSANE

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Date: 2025.03.21
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(MADHAV J. JAMDAR, J.)