



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 2164 OF 2024

IN

WRIT PETITION NO. 2432 OF 2023

Ashok Martand Hile & Another

...Applicants

Versus

Shankar Laxman Hinge (since deceased, through
LRs) and Others

...Respondents

*Mr. Prabhakar M. Jadhav, Ms. Suchita Chavan i/b Mr. Vishal Kolekar for
Petitioner.*

*Mr. Abhijit G. Aher (through VC) i/b Mr. Mahendra Karnawat for Respondent
Nos. 1b and 1c.*

Coram : Sharmila U. Deshmukh, J.

Date : 26th November, 2025.

P. C. :

1. Interim Application has been preferred for bringing on record the legal heirs of the deceased-Respondent No. 1 and for condonation of delay of 346 days caused in filing the Interim Application.
2. Learned counsel appearing for Applicant submits that the Applicants were the Respondents in Revision Application filed before the Sub-Divisional Officer against the order of Mamlatdar passed under Section 5 of the Mamlatdar's Courts Act, 1906. He submits that during the pendency of Writ Petition, the Respondent No. 1 expired on

6th August, 2022 and Applicants were not aware of the death of Respondent No. 1. He submits that Writ Petition was listed for admission on 23rd January, 2024 with remark that Respondent Nos. 1 and 2 had expired at which point of time, the Applicants acquired knowledge of death of Respondent Nos. 1 and 2. He submits that on 20th February, 2024, the Application had been taken out for bringing the legal heirs on record.

3. Learned counsel appearing for proposed Respondents would submit that the Applicants as well as Respondents are residents of the same village and therefore, they were aware of death of Respondent No. 1.

4. Upon query by this Court, learned counsel appearing for the proposed Respondents submits that there was no information given to Advocate for Petitioner about the death of Respondent Nos. 1 and 2.

5. The Respondent No. 1 was duly represented by an Advocate and it was duty of the Advocate for Respondent No. 1 to intimate the death of Respondent No. 1 along with details of legal heirs so as to enable the Applicant to take out appropriate application within time. The issue of condonation of delay is required to be considered from the date of acquisition of knowledge of death of Respondent No. 1.

6. The Application specifically pleads that it is only when the Writ Petition was listed for admission on 23rd January, 2024, the Applicants

became aware of death of Respondent Nos. 1 and 2. There is no reason as to why the said plea should not be accepted particularly considering the Advocate for Respondents has not bothered to intimate the Advocate for Applicant about the death of Respondent Nos. 1 and 2. The delay has thus been satisfactorily explained in the Application.

7. In light of above, Interim Application is allowed.

8. The delay of 346 days stands condoned and abatement is set aside. Amendment to be carried out within period of two weeks from today.

[Sharmila U. Deshmukh, J.]