



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 6882 OF 2024
IN
FIRST APPEAL NO. 574 OF 2000

Mahendra Sakharam Keni and Others. ...Applicants.

In the matter between :

Kamalakar Khanderao Patil and Others. ...Appellants.

Versus

Jayant Janardhan Mhatre and Others. ...Respondents.

Kishor D. Shah for the Appellant.

Rakesh Pande and Ashutosh Shukla for the Respondent No. 13.

Coram : Sharmila U. Deshmukh, J.

Date : April 17, 2025.

P. C. :

1. Interim Application has been preferred for bringing on record the legal heirs of deceased Appellant No.5 and for condonation of delay.
2. Learned Counsel appearing for the Respondent No. 13 submits that the Appellant No.5 expired on 30th April 2013 and the present Application is filed after the delay of almost 10 years.
3. First Appeal is of the year 2000 and has already been admitted. Appellant No.5 expired in the year 2013. It is matter of common knowledge that once Appeal is admitted, there is hardly any

communication between the litigant and Advocate on record and it is only when the Appeal is listed for final hearing, that for obtaining necessary instructions, communication is established. The Application specifically pleads that it is only when the matter was listed on board that the Advocate on record was informed about the death of Appellant No. 5 and thereafter the present Application has been taken out. Pertinently, the cause of action does not abate as there are other Appellants and as such the right to sue survives. In view thereof, though there is delay, in the circumstances of the case, delay is condoned and Interim Application is allowed. Amendment to be carried out within four weeks from today.

[Sharmila U. Deshmukh, J.]