

Iresh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

**INTERIM APPLICATION NO. 9945 OF 2024
IN
SECOND APPEAL NO. 726 OF 2005**

Raichand Harakchand BaldotaApplicants
(Since Deceased) thr. LRs and ors

Vs.

Shri. Dattatraya Dada PimpalgaonkarRespondents
and ors

**WITH
INTERIM APPLICATION NO. 9953 OF 2024
IN
SECOND APPEAL NO. 719 OF 2005**

Raichand Harakchand BaldotaApplicants
(Since Deceased) Thr. LRs and ors

Vs.

Shri. Dilipkumar Dattatraya PimpalgaonkarRespondent

**WITH
INTERIM APPLICATION NO. 9957 OF 2024
IN
SECOND APPEAL NO. 727 OF 2005**

Raichand Harakchand BaldotaApplicants
(Since Deceased) Thr. LRs and ors

Vs.

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Shri. Dattatraya Dada Pimpalgaonkar
and ors

.....Respondents

Mr. Shubham Misar a/w Mr. Vaibhav Thorave Advocate for the
Applicants

Mr. Kayval Prafulla Shah for respondent nos. 1 to 3 in IA 9945/2024, IA
9957/2024, and for respondent no. 1 in IA 9953/2024 and

CORAM : GAURI GODSE, J.
DATE : 7th JANUARY 2025

ORDER:

1. These applications are for bringing on record heirs and legal representatives of deceased sole appellant in all the second appeals. Since no steps were taken to bring on record the legal heirs, the second appeals were dismissed as abated.

2. A perusal of the order dated 14th March 2024 indicates that the advocate who was initially appearing for the appellant had submitted before the Court that he has already returned the papers to the appellant in 2014.

3. There is nothing on record to indicate that the earlier advocate for the appellant had any time taken discharge from the matter. The reasons recorded in the order dated 14th March 2024 explains the circumstances after the death of the sole appellant. In the applications, it is contended that even the power of attorney holder through whom the appellant was represented expired. The reasons for the delay and

the steps taken to file the applications are explained in detail.

4. Learned counsel for the respondents vehemently opposes the applications on the ground that the appeals have remained pending since 2005. He submits that the reasons stated in the applications are not justifiable and acceptable.

5. I have perused the grounds raised for the condonation of delay and setting aside abatement. I see no reason to disbelieve the grounds taken in the applications. I see no substance in the ground of opposition on behalf of the respondents that the second appeals are of the year 2003 and 2005 and have remained pending till now.

6. Second appeals are admitted on 29th August 2005. The appeals have not remained pending due to any fault on the part of the appellant.

7. Hence, in the facts and circumstances of the case, delay is condoned and the applications are allowed in terms of prayer clauses (A) to (C).

8. Amendment to be carried out within four weeks.

[GAURI GODSE, J.]