



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 15759 OF 2024
IN
FIRST APPEAL NO. 295 OF 2017

Mustan Tambawala Abdul
Hussain Tambhawala. ...Applicant.

In the matter between :
Anil Lekhraj Khosla and Others. ...Appellants.

Versus
Sangeeta Ramchand and Others. ...Respondents.

Mr. A. A. Dandekar for the Applicant.
Mr. Pankaj Thatte, Mr. Amit Sharma and Ms. Purva Raorane for the Respondent.

Coram : Sharmila U. Deshmukh, J.

Date : March 13, 2025.

P. C. :

1. Interim Application has been preferred for bringing on record the legal heir of deceased Appellant No.3 and for condonation of delay of 858 days caused in filing the present Application.
2. Learned Counsel appearing for the Applicant submits that legal heir of Appellant No.3 is Appellant No.2 and the only amendment to be carried out is to the extent of bringing Appellant No.2 on record in capacity of legal heir of Appellant No.3. He submits that First Appeal is of the year 2012 and in the other proceedings in respect of the same

unit, the Advocate on record became aware that even in the First Appeal the legal heir will have to be brought on record. He submits that by reason of the same, there is delay of 858 days caused in preferring the Application, however, no prejudice is being caused as Appellant No.2 is already on record.

3. *Per contra*, learned Counsel appearing for the Respondent would submit that the Appellants have been negligent in prosecuting the matter which is evident from the fact that since the year 2015 though various orders have been passed for amending the Appeal, the same has not been carried out. He submits that the conduct of Appellant would show that the entire effort is only to delay the proceedings. He submits that due to negligence of Appellant, the explanation should not be accepted and the Application should be dismissed.

4. The undisputed position is that Appeal has been filed by 3 Appellants and the Appellant No.2 is the husband of deceased Appellant No.3 and after her death is the legal heir who is sought to be brought on record in his capacity as legal heir of Appellant No.3. As the Appellant No.3 is already on record in his individual capacity, what is required is only the formal amendment for him to be brought on record in the capacity as legal heir of Appellant No.3.

5. Considering the above position, even though there is delay of 858 days no prejudice is being caused if the delay is condoned and the

Application is allowed.

6. As far as the non compliance of orders is concerned, learned Counsel appearing for the Appellant would submit that the same would be complied with.

7. In the light of above, the Interim Application is allowed and the delay stands condoned. Amendment to be carried out within a period of two weeks from today.

[Sharmila U. Deshmukh, J.]