

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2513 OF 2025

Nandkumar Laxman Sonawane ... Petitioner
Since deceased through heirs

V/s.

Smt. Bhambai Laxman Sonawane ... Respondents
since decd through heirs and Ors.

Ms. Manjiri Parasnis, for the petitioner.

CORAM : N.J. JAMADAR, J.

DATE : 16th SEPTEMBER 2025

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ORAL ORDER:

1. Heard the learned counsel for the petitioner.
2. The challenge in this petition is to an order dated 15th July 2024 passed by the learned Civil Judge, Kalyan whereby the learned Civil Judge was persuaded to set aside the order dated 7th September 2021 of abatement of the suit qua defendant no. 1 for not bringing the legal representatives of defendant no. 1 on record within the stipulated period.
3. By the said order, the learned Civil Judge was persuaded to allow the application to condone the delay in taking out the application for setting aside the abatement and also set aside the abatement of the suit qua defendant no. 1.

4. The learned Civil Judge took note of the fact that, in view of the order passed by the Supreme Court in *Suo Motto Writ Petition No. 3 of 2020*, the period upto February 2022 was required to be excluded from consideration. Though the application was required to be made within 90 days thereof, it was filed in the month of August 2022. Thus, the Civil Judge was persuaded to condone the delay.

5. Learned counsel for the petitioner submitted that the objections raised by the petitioner / legal representatives of defendant no. 1 were not adequately considered by learned Civil Judge. The delay was condoned despite no satisfactory reason having been assigned by the plaintiff/respondent.

6. I am unable to persuade myself to agree with the aforesaid submissions. Evidently, the defendant no. 1 has passed away during Covid-19 Pandemic.

7. Learned Civil Judge rightly observed that the period upto February 2022 was required to be excluded. Though there was some delay on the part of the plaintiff, yet, having regard to the exigency of the situation which arose in the wake of Covid-19 Pandemic, the reasons ascribed by the plaintiff in the application for condonation of delay and setting aside the abatement, cannot be said to be unsustainable.

8. It is trite law that, when the Court exercises positive discretion to condone the delay, the revisional Court or the Court exercising supervisory jurisdiction need not interfere with such positive exercise of discretion unless the order can be said to be perverse.

9. The impugned order does not fall in that category. Thus, this Court in exercise of supervisory jurisdiction does not find any justifiable reason to interfere with the exercise of discretion by the learned Civil Judge, which advances the cause of substantive justice.

10. The petition stands dismissed.

(N.J. JAMADAR, J)