

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 1047 OF 2025.

IN
FIRST APPEAL NO. 339 OF 2002.

Shri Dhareppa Mallikarjun Arwat Since Deceased ...Applicants.
Thr. Lrs. 1a) Sangavva Dhareppa Arwat And Ors.

Versus

The State Of Maharashtra And Anr. ...Respondents.

Mr. Yogesh Thorat for the Applicants.
Mr. A. R. Patil AGP for the Respondent-State.

Coram : Sharmila U. Deshmukh, J.

Date : January 27, 2025.

P. C. :

1. Interim Application has been preferred for bringing on record the legal heirs of the deceased sole Applicant and for condonation of delay of 3 years and 8 months caused in preferring the Interim Application.

2. Learned Counsel appearing for the Applicant submits that the proceeding arise out of land acquisition proceedings and the First Appeal was filed in the year 2002 which came to be admitted by this Court by order of 3rd May, 2002. He submits that during the pendency of the First Appeal the sole Applicant expired and the Applicants who are not aware of the legal procedure did not inform the Advocate about the death of the sole Applicant and by reason of which there is

delay of 3 years and 8 months caused in preferring the Interim Application. He submits that considering that the proceedings arise out of land acquisition proceedings, which dispute, the Applicants had been diligently pursuing since the last 24 years a fit case is made out for condoning the delay and setting aside abatement.

3. Mr. Patil learned AGP does not seriously oppose the Application in view of the fact that the proceeding arise out land acquisition proceeding.

4. The Appeal has been admitted in the year 2002 and the sole Appellant expired on 7th May, 2021. It is not uncommon that once the Appeal has been admitted there is communication gap between the advocate on record and the Applicants and it is only when the matter is listed for final hearing that communication is established for seeking instructions. In the present case it cannot be debated that the Applicants are agriculturists and would be unaware of the legal procedure. It also cannot be disputed that they were diligently pursuing the proceeding since last many years and in view thereof the explanation which is tendered for setting aside abatement in condonation of delay is an acceptable explanation.

5. For the reasons stated in the Application, the delay of 3 years and 8 months caused in preferring the Interim Application is condoned and the abatement is set aside. The Applicants are permitted

to be brought on record as the legal heirs and legal representative of the deceased sole Applicant.

6. Interim Application is allowed. Amendment to be carried out within a period of three weeks from today.

[Sharmila U. Deshmukh, J.]