

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 3415 OF 2025

IN

FIRST APPEAL NO. 511 OF 1999

Ichalkaranji Municipal Corporation

...Applicant

Versus

Shailajadevi @ Vahinisaheb Trimbakrao Pratinidhi
(since deceased, through LRs) and Others

...Respondents

*Mr. Avesh Ghadge i/b Mr. Akshay Shinde for Appellant.
Mr. Saurabh Oka for Respondent.
Mr. A. R. Patil, AGP for the Respondent-State.*

Coram : Sharmila U. Deshmukh, J.

Date : 26th March, 2025.

P. C. :

1. Interim Application has been preferred for bringing the legal heirs of deceased-Respondent No. 1B on record and for condonation of delay of 16 years and for setting aside the abatement.
2. Learned counsel appearing for Applicant submits that the Appeal is of the year 1999 and during the pendency of Appeal, the Respondent No. 1B expired on 3rd December, 2009. He submits that during the pendency of Appeal, there was change of Advocate and Advocate of Respondents informed the erstwhile Advocate in the year 2022 about the death of Respondent No. 1B, which was intimated to the present

Advocate and as such, there is delay.

3. Learned counsel appearing for proposed Respondents submits that there is no proper explanation for the delay and same may not be condoned.

4. It cannot be disputed that as the Appeal is of the year 1999 and has not been listed for 'Final Hearing', there would be no occasion for the Appellants to contact their Advocate to inform them about the death of Respondent. Though Respondent No. 1B had expired in the year 2009, their Advocate had not informed the Advocate about the death of Respondent No. 1B till the year 2022. The Applicant thus, had no knowledge about the death of Respondent No. 1B and could not take steps within the prescribed period. As there is sufficient explanation for delay, delay stands condoned. Abatement is set aside.

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

[Sharmila U. Deshmukh, J.]