



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**FIRST APPEAL (ST) NO.16697/2019
WITH
CIVIL APPLICATION NO. 3516/2019
WITH
CIVIL APPLICATION NO. 3517/2019
WITH
CROSS OBJECTION (ST) NO.33847/2023
WITH
INTERIM APPLICATION NO. 6642/2025
WITH
INTERIM APPLICATION NO. 6641/2025
IN
FIRST APPEAL (ST) NO.16697/2019**

**THE STATE OF MAHARASHTRA
THROUGH THE DEPUTY COLLECTOR ..APPELLANT
VS
SHRI. ATMARAM VITHHAL GHARAT
(DECEASED)THROUGH HIS LEGAL
HEIRS.1/1 SHRI.MAHADEV A.GHARAT & ORS. ..RESPONDENTS
WITH
INTERIM APPLICATION NO. 6643 OF 2025
IN
FIRST APPEAL (ST) NO.16697/2019
(NOT ON BOARD; TAKEN ON BOARD)**

**MALUBAI SHANKAR GHARAT (DECD.)
1. MAHADEV ATMARAM GHARAT & ORS. ..APPLICANTS**

IN THE MATTER BETWEEN

**THE STATE OF MAHARASHTRA
THROUGH THE DEPUTY COLLECTOR ..APPELLANT
VS
SHRI. ATMARAM VITHHAL GHARAT
(DECEASED)THROUGH HIS LEGAL
HEIRS.1/1 SHRI.MAHADEV A.GHARAT & ORS. ..RESPONDENTS**

**WITH
INTERIM APPLICATION NO. 6644/2025
IN
FIRST APPEAL (ST) NO.16697/2019**

ARVIND ATMARAM GHARAT (DECD.)

1. PRITAM ARVIND GHARAT & ORS.

..APPLICANTS

IN THE MATTER BETWEEN

THE STATE OF MAHARASHTRA

THROUGH THE DEPUTY COLLECTOR

..APPELLANT

VS

SHRI. ATMARAM VITHHAL GHARAT

(DECEASED)THROUGH HIS LEGAL

HEIRS.1/1 SHRI.MAHADEV A.GHARAT & ORS. ..RESPONDENTS

Mr. A. R. Patil, Addl. G.P for appellant / State.

Mr. Vijay Gharat a/w. Mr. Shubham Gangan for respondent nos. 1/1
to 1/5, 2/1, 3/1 to 3/3 and 4.

CORAM : RAJESH S. PATIL, J.

DATE : 3 NOVEMBER 2025.

P.C. :

**INTERIM APPLICATION NO. 6641/2025 IN FIRST APPEAL (ST)
NO.16697/2019:-**

1. This application is filed for restoration of First Appeal St. No.
16697 of 2019.

2. Heard learned counsel for the parties.

3. For the reasons mentioned in the application, **the same is
allowed in terms of prayer clauses (b), (c), (d) and (e).**

4. Amendment to be carried out within a period of two weeks from today.

5. The application is disposed of accordingly.

INTERIM APPLICATION NO. 6642/2025 IN FIRST APPEAL (ST) NO.16697/2019 :-

6. This application is filed to bring on record the legal heirs of the deceased respondent No.2/1.

7. Heard learned counsel for both parties.

8. The Division Bench of this Court in *Keshao s/o. Kawadu Maral and another Versus State of Maharashtra and others*, reported in *2005 (1) MahLJ 1059*, condoned the delay of six years in filing the Application of bringing the legal heirs on record, relying on the Supreme Court judgment of *Sardar Amarjit Singh Karla (dead) by LRS. and others Versus Pramod Gupta (Smt.) (dead) by LRS. and others*, reported in *2003 (3) SCC 272*.

9. Taking into consideration the law laid down in above judgments and for the reasons stated in the application, the present application is **allowed in terms of prayer clauses (a) to (d) and disposed of accordingly.**

10. Amendment to be carried out within a period of two weeks

from today.

FIRST APPEAL (ST) NO.16697/2019 :-

11. Heard learned counsel for the parties.

12. Admit.

13. The appellant to file private paper-book within six months from today. A copy of the same to be served on other side.

14. Soft copy of R & P be sent by the trial Court to the High Court within 4 weeks from today. Original R & P should be preserved by the trial Court till further orders of this Court. Original R & P to be sent to the High Court when called for.

15. Parties to file a compilation of documents, short synopsis along with their preposition of law and authorities relied upon by them within one week from today.

CROSS OBJECTION (ST) NO.33847/2023 IN FIRST APPEAL (ST) NO.16697/2019 :-

16. Heard learned counsel for the parties.

17. Admit.

18. The appellant is also permitted to file private paper-book within six months from today. A copy of the same to be served on other side.

19. Cross Objection to be heard along with First Appeal St. No. 16697 of 2019

CIVIL APPLICATION NO. 3516/2019 IN FIRST APPEAL (ST) NO.16697/2019 :-

20. This application is filed for condonation of delay in filing the First Appeal.

21. Heard learned counsel for the parties.

22. I have gone through the contents of the application and convinced that the application requires to be allowed.

23. Supreme Court in the judgment of *Collector, Land Acquisition, Anantnag and another Vs. Mst. Katji and Others* reported in *1987 SC 1353*, has held that:

“Every day’s delay must be explained” does not mean that a pedantic approach should be made. Why not every house’s delay. Every second’s delay ? The doctrine must be applied in a rational common sense pragmatic manner.”

24. Supreme Court in the case of *S. Ganesharaju (Dead) through Lrs V. Narasamma (Dead) through Lrs* reported in *(2013) 11 SCC 341*, more specifically, paragraph Nos. 12 and 13, of the said judgment held that a liberal construction to the cause of delay should be given. The said paragraphs are reproduced herein below:

12. The expression “sufficient cause” as appearing in Section 5

of the Limitation Act, 1963, has to be given a liberal construction so as to advance substantial justice. Unless the respondents are able to show malafides in not approaching the court within the period of limitation, generally as a normal rule, delay should be condoned. The trend of the courts while dealing with the matter with regard to condonation of delay has tilted more towards condoning delay and directing the parties to contest the matter on merits, meaning thereby that such technicalities have been given go-by.

13. The rules of limitation are not meant to destroy or foreclose the right of parties. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly.

25. Bombay High Court in the judgment of ***Kamalbhai Narasaiyya Shrimal and Another Vs. Ganpat Vithalrao Gavare*** reported in **2007**

(1) MH. L.J. 807, paragraph Nos.13 and 15 has held:

13. The factual position is manifestly clear on bare perusal of the application for condonation filed by the petitioners before the learned District Judge. The only relevant statement in the application is thus:

“The delay caused in preferring the appeal is of six months. The caused delay is not intentional one. The appellants are poor and helpless persons. If the delay is not condoned appellant may cause irreparable loss which cannot be compensated in terms of money. The suit was for recovery of possession and present appellants are tenants. If the delay is not condoned then appellants will become shelterless.”

15. The expression “sufficient cause” cannot be erased from section of the Limitation Act by adopting excessive liberal approach which would defeat the very purpose of section 5 of the Limitation Act. There must be some cause which can be termed as a sufficient one for the purpose of delay condonation. I do not find any such “sufficient cause” stated in the application and as such no interference in the impugned order is called for.”

26. According to me, considering the submissions and the law laid down in various judgments, a case is made out to allow the Civil Application.

27. The application is allowed in terms of prayer clause (b) and disposed of accordingly.

CIVIL APPLICATION NO. 3517/2019 IN FIRST APPEAL (ST) NO.16697/2019 :-

28. Stand over to 1 December 2025.

INTERIM APPLICATION NO. 6643 OF 2025 IN FIRST APPEAL (ST) NO.16697/2019 (NOT ON BOARD; TAKEN ON BOARD):-

29. In view of the order passed in Interim Application No. 6641 of 2025 filed by the State in the First Appeal, **the present interim application is disposed of.**

INTERIM APPLICATION NO. 6644/2025 IN FIRST APPEAL (ST) NO.16697/2019:-

30. This application is filed to bring on record the legal heirs of the deceased respondent No.1/D.

31. Heard learned counsel for both parties.

32. The Division Bench of this Court in *Keshao s/o. Kawadu Maral and another Versus State of Maharashtra and others*, reported in *2005 (1) MahLJ 1059*, condoned the delay of six years in filing the Application of bringing the legal heirs on record, relying on the

Supreme Court judgment of *Sardar Amarjit Singh Karla (dead) by LRS. and others Versus Pramod Gupta (Smt.) (dead) by LRS. and others*, reported in *2003 (3) SCC 272*.

33. Taking into consideration the law laid down in above judgments and for the reasons stated in the application, the present application is **allowed in terms of prayer clauses (a) to (c) and disposed of accordingly.**

34. Amendment to be carried out within a period of two weeks from today.

(Rajesh S. Patil, J.)