



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Civil Application [CAS] No.69 of 2025
with
Civil Application [CAS] No.68 of 2025
in
Second Appeal No.392 of 2009

Barsu s/o Mahadeo Mohinkar and others
vs.
Kisan Govinda Narule (Dead) through L.Rs.

*Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.*

Court's or Judge's Orders

Mrs. V.P. Thakre, Advocate for the Applicants/Appellants.
Mr. P.A. Markandeywar, Advocate for the Non-Applicants/Respondents.

CORAM : M.W. CHANDWANI, J.
DATE : 4th MARCH, 2025.

Heard.

02. By the present applications, appellant Nos.2 and 3 seek to condone the delay caused in filing the applications for bringing the legal heirs of appellant No.1 on record and setting aside abatement.

03. Appellant Nos.2 and 3 are the son and daughter of appellant No.1, respectively. The proposed applicants as mentioned in the applications are the remaining legal heirs of appellant No.1. Appellant No.1 expired on 28/08/2010 and the applications have been moved recently. The contention is that the appeal was admitted and when it was listed for final hearing on 18/03/2024, the learned Counsel informed the Court that appellant No.1 expired and the steps to bring the death certificate of appellant No.1 as well as his legal heirs on record are being taken.

04. The applications are objected on the ground that almost 14 years have lapsed and there is no explanation to that effect.

05. There is no dispute that once the appeal is admitted, the matters are not taken on the daily board and are listed for final hearing on the hearing party board. The learned Counsel for the appellants used to appear in the matter and perhaps there may not have been any contact between the appellants and their learned Counsel. If the applications are allowed, no prejudice would be caused to the respondents.

06. Hence, the delay caused in filing the application for bringing the legal heirs of appellant No. 1 on record is condoned and the abatement is set aside. Since, the right to sue survives in favour of the legal heirs of appellant No.1, permission is granted to bring the legal heirs of appellant No.1 on record.

07. Necessary amendments in the cause title of the appeal memo be carried out within two weeks.

08. The applications are allowed and disposed of accordingly.

Civil Application [CAS] Nos.66 and 67 of 2025:

Heard.

02. For the reasons mentioned in the applications, the delay caused in filing the applications for bringing the legal heirs of respondent No.1 on record and for setting aside the abatement is hereby condoned.

03. Since, the right to sue survives in favour of the legal heirs of respondent No.1, permission to bring the legal heirs of respondent No.1 on record is granted.

04. Necessary amendments in the cause title of the appeal memo be carried out within two weeks. After carrying out amendments, notices be issued to the newly added respondents, returnable within two weeks thereafter.

05. The applications are allowed and disposed of accordingly.

JUDGE

**sandesh*