



28.24

1

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

CIVIL APPLICATION (S) NO. 728 & 727/2024
IN
SECOND APPEAL NO. 247/2015

Padmakar Bhonde & anr.

...VERSUS...

Durga Datir & ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Shri V.G. Bhamburkar, Advocate for the Applicant/Appellant(s)

Shri A.D. Dangore & Ms. D.L. Agashe, Advocates for the respective Respondents

CORAM :- M.S. JAWALKAR, J.
JANUARY 22, 2025

(1) The present Applications are filed for condonation of delay in bringing on record the legal heirs of the Respondent No. 5, for bringing on record the legal heirs of the Respondent No. 5 and for setting aside the abatement.

(2) There is a delay of 596 days and the reason put-forth is that the earlier Advocate has not taken the steps to bring on record the legal heirs of the Respondent No. 5.

(3) Learned Counsel for the Respondent No. 1 contends that the parties are in relation to each other, and therefore, the Appellants were having knowledge about the death of the Respondent No. 5, and therefore, he prays for rejection of the Application.

(4) Considering the fact that the Appeal is already admitted, the right to sue survives. As such, the Applications are **allowed**. Delay is hereby condoned, abatement is set aside and the Appellants are permitted to bring on record the legal heirs of the Respondent No. 5 as mentioned in Paragraph No. 4 of the Application. However, as no due diligence is shown by the Appellants, they shall pay a costs of Rs. 2,000/- to the Respondent No. 1 who is the contesting Respondent in the present matter.

(5) Amendment be carried out within a period of one week from today. Ms. Agashe, learned Counsel waives notice for the Respondent Nos. 5(a) and (b).

(6) The Applications stand **disposed of**.

(7) List the Second Appeal for further consideration in the week commencing from 10/02/2025.

(M.S. JAWALKAR, J.)