

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

WRIT PETITION NO. 567 OF 2026

Santosh Maruti Thule & Ors.

..Petitioners

Versus

Bandu Sawala Thule & Ors.

...Respondents

Mr. Nikitesh Kotangale a/w Mr. Amit Jaiswar, Mr. Suhas Sarwade, for the petitioners.

Mr. Divyesh K. Jain a/w Mr. Nitin Gaware Patil, for the Respondent Nos. 2 and 4.

CORAM: N. J. JAMADAR, J.

DATE : 27th JANUARY 2026

P.C.:

1. Heard the learned Counsel for the parties.
2. The challenge in this petition is to an order dated 03rd February, 2025 passed by the learned Civil Judge, whereby an application preferred by the petitioners-plaintiffs to bring on record the legal representatives of the Defendant No. 7 along with an application for condonation of delay in seeking setting aside the abatement and bringing the legal representatives on record, came to be rejected.
3. It seems that, the learned Civil Judge was persuaded to reject the application on the ground that, in Paragraph No. 15 of the plaint, the plaintiffs have stated that, they were not seeking any relief against the Defendant No. 7. to 12. In Paragraph No.

15 of the plaint, the petitioners-plaintiffs have stated that they have not sought any relief against the Defendant Nos. 7 to 12. However, it is specifically pleaded that, the Defendant Nos. 7 to 12 are impleaded as party defendants to the suit as there should be no bar to the maintainability of the suit on the ground of non-rejoinder of necessary parties. In a given case, defendant may be a necessary party, though no specific relief has been claimed against such defendant. In case of a proper party, no relief need be specifically claimed.

4. Thus, the application for condonation of delay to set aside the abatement and to bring legal representatives on record could not have been rejected on the ground that no relief was sought against the deceased Defendant No. 7.

5. Resultantly, the impugned order cannot be sustained. The impugned order stands quashed and set aside.

6. The applications (Exh. 57, 59 and 61) are restored to the file of the learned Civil Judge for a fresh decision on merits and in accordance with law.

7. The petition stands disposed.

[N. J. JAMADAR, J.]