



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.14037 OF 2025**

Tanaji Vishram Kandekar and Ors.	...	Petitioners
versus		
Kamlabai Dropadabai Vishram Kandekar (deceased)		
through legal heirs and Ors.	...	Respondents

Mr. Pramod N. Joshi, for Petitioners.

CORAM: N.J.JAMADAR, J.

DATE : 7 MARCH 2026

P.C.

1. Heard the learned Counsel for the Petitioners.
2. The challenge in this Petition is to the orders passed by the learned Civil Judge on 22 January 2025, whereby the learned Civil Judge rejected the applications preferred by the legal representatives of the deceased Defendant No.2 to bring them on record.
3. The substance of the objection of the legal representatives of the deceased Defendant No.2 was that the application to set aside the abatement (Exh.87) and the application to condone delay in setting aside the abatement and bring legal representatives of deceased Defendant No.2 on record (Exh.85) were allowed by the learned Civil Judge without issuing notice to the proposed legal representatives of Defendant No.2 and recording adequate reasons.
4. By the impugned orders, the learned Civil Judge rejected the challenge

on the ground that the applications for condonation of delay (Exh.85) and to set aside the abatement (Exh.87) were granted by his predecessor and, therefore, it was not permissible to reopen the issue.

5. Learned Counsel for the Petitioners submitted that, the factum of death of Defendant No.2 was intimated to the Plaintiffs by filing pursis on 19 July 2021 itself. Yet, the application to bring the legal representatives on record along with the application for condonation of delay in seeking setting aside the abatement and to bring legal representatives on record, came to be filed on 12 August 2022. No explanation was offered to account for the delay. In any event, the learned Civil Judge could not have condoned the delay without issuing notice to the proposed legal heirs of the deceased Defendant No.2.

6. The court finds that the applications to condone the delay in seeking setting aside of the abatement and to bring the legal representatives of deceased Defendant No.2 on record (Exh.85) and to set aside the abatement (Exh.87) were allowed by the learned Civil Judge by recording reason that, to advance the cause of substantive justice and for complete adjudication the applications deserved to be allowed. After the applications were allowed, the legal representatives of the deceased Defendant No.2 appeared before the Court and filed objections. Once the applications seeking condonation of delay in setting aside of the abatement and to bring legal representatives of the deceased Defendant No.2 on record were allowed, the impleadment of

the legal representatives was a necessary corollary. It could be urged that the learned Civil Judge while passing the orders dated 12 July 2022 by which the applications (Exh.85 and 87) were allowed, has not recorded elaborate reasons. Nonetheless, the principle that in the matter of condonation of delay in bringing the legal representatives of a deceased party, the court is required to take a liberal approach, cannot be lost sight of.

7. At any rate, while passing the impugned order dated 22 January 2025 the learned Civil Judge was justified in observing that, since the applications for condonation of delay and setting aside the abatement were allowed, it was impermissible to reopen the issue.

8. In these circumstances, in exercise of supervisory jurisdiction, this court does not find any justifiable reason to interfere with the impugned orders.

9. The Writ Petition, thus, stands dismissed.

(N.J.JAMADAR, J.)