

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 11800 OF 2025

IN

WRIT PETITION NO. 5066 OF 1996

Runja Laxman Date

(Since deceased through legal heirs and
representative)

Changan Runja Date and Anr

... Applicants

IN THE MATTER OF

Shri Runja Laxman Date (Deceased)

... Petitioner

Versus

Shri Sanjay N. Nimbekar

... Respondent

WITH

WRIT PETITION NO. 5066 OF 1996

WITH

CIVIL APPLICATION NO. 6501 OF 1996

IN

WRIT PETITION NO. 5066 OF 1996

.....

Mr. Pandit Kasar, Advocate for the Interim Applicants.

Ms. Shraddha Pawar instructed by Mr. Nilesh Patil, Advocate for the
Respondent.

.....

CORAM : ABHAY AHUJA, J.

DATE : 5 FEBRUARY 2026

P.C. :

1. When the matter is called out, Ms. Pawar, learned Advocate
appears and submits that the Respondent has died on 8th August 2012
and tenders across the bar a photocopy of the proof of death issued by

the State Government, which is dated 28th August 2014 and not disputed by Mr. Kasar Learned Advocate for the Interim Applicants.

2. This Court on 7th January 2026 had granted time to the learned Advocate to take instructions on whether the Respondent was alive when the Interim Application was filed. Today, with the tendering of a photocopy of the proof of death of the Respondent which is not disputed, it is clear that the Respondent has passed away on 8th August 2012.

3. The Interim Application No. 11800 of 2025 has been filed by the heirs of the deceased Petitioner is of the year 2025. Mr. Kasar, learned Advocate, appearing for the Interim Applicants submits that the Interim Application has been filed seeking to bring on record the legal heirs of the deceased Petitioner, who died on 25th March 2016, which learned Advocate submits is evidenced from the death certificate dated 13th September 2025 issued by the State Government.

4. Mr. Kasar has submitted that the delay of 9 years and 8 days in filing the Interim Application has occasioned as the lawyer who was handling the matter initially, who was informed immediately upon the death of the original Petitioner, did not file any application and that

since the Applicants did not know of the procedure and the guidelines to be followed, no application was filed until recently and when the Applicants enquired with the then Advocate as to the status of the matter, and the Advocate for the Petitioner informed them that no steps had been taken to file the application to bring the legal heirs of the deceased Petitioner on record. That thereafter, the Applicants have approached the present Advocate and therefore there has been a delay of 9 years and 8 days.

5. Although no reply has been filed to this Application, Ms. Pawar has denied the submissions in the Interim Application and as noted above tendered a copy of the proof of death of the Respondent, which indicates that the Respondent has died on 8th August 2012 which is prior to the death of the Petitioner.

6. On 7th January 2026 after hearing the learned Advocates in the matter, this Court had, as noted above, observed in paragraph 2 that until and unless it is established that the Respondent was alive when this Interim Application was filed, it may not be possible to continue the proceedings as the proceedings against both the parties would have abated.

7. Mr. Kasar has despite the fact that the Respondent has passed away in the year 2012 and that the Petitioner has also passed away in the year 2016 and that the Interim Application has been filed only in the year 2025 seeking to bring the legal heirs of the deceased Petitioner on record on the grounds as noted above, drawn this Court's attention to Order XXII Rule 1 of Code of Civil Procedure, 1908, submitting that no abatement takes place if the right to sue survives.

8. Before proceeding further to decide on the submission made by Mr. Kasar, it would be pertinent to first consider the Interim Application that has been filed to bring the Applicants on record as legal heirs of the deceased Petitioner. In the Interim Application, it has been submitted that the initial lawyer was immediately informed of the death of the original Petitioner with instructions to file an application to take appropriate steps for bringing the legal heirs of the original Petitioner on record, however there is no correspondence or supporting documents to indicate as to who the earlier lawyer was and as to what were the nature of communications or mode thereof. No dates of the said communications have been mentioned in the body of the application or in any of the annexures thereto, except that there is a death certificate of the Petitioner which indicates that the Petitioner has

passed away on 25th March 2016. There is no detail or date of the correspondence or communication with the Advocate on record and a bare submission has been made that recently the Applicant enquired with the then Advocate on record as to the status of the matter and upon that the Advocate for the Petitioner informed them that no steps for filing the application to bring the legal heirs on record has been taken. As noted above, the name of the then Advocate on record has also not been stated nor is there any complaint against the said Advocate for not taking steps. There is nothing on record to corroborate the submissions of the Interim Applicants Except these bald grounds, no other grounds have been taken for seeking to explain the delay of 9 years and 8 days. There is, in my view, no sufficient cause made out for condoning the delay of 9 years and 8 days.

9. Accordingly, the Interim Application No.11800 and 2025 deserves to be dismissed and is hereby dismissed as there has been no sufficient cause explained for the inordinate delay in filing the Interim Application.

10. In view of the dismissal of the Interim Application for bringing on record the legal heirs of the deceased Petitioner who

passed away on 25th March, 2016, and in view of the fact that the Respondent had passed away in the year 2012 and till date no steps have been taken for bringing the heirs of the deceased Respondent on record, the Petition has abated.

11. Mr. Kasar has sought to argue that only today the death certificate of the Respondent has been tendered across the bar and that no information with respect to the death of the Respondent was ever made available to the erstwhile Petitioner or Applicants or their Advocates.

12. Ms. Pawar has clarified that both the Petitioner and the Respondent were from the same village and it is not possible that the Petitioner would not have known about the death of the Respondent. I agree with Ms. Pawar. It is not conceivable that the Petitioner when alive would not have known about the death of the Respondent

13. Parties who do not care to protect their rights do not deserve any mercy from the Courts.

14. The case of *Katari Suryanarayana v. Koppiseti Subba*¹, supports the above view where the Hon'ble Supreme Court while

¹(2009) 11 SCC 183

hearing a challenge against an order of the High Court dismissing an application for condonation of delay for bringing legal heirs on record in a second appeal has held that:

“23it is difficult to conceive that the Petitioners were not in touch with their learned Advocate from 1999 to December 2006. If not every week they are expected to contact their lawyers once a year. Ignorance of legal consequence without something more would, in our opinion, not be sufficient to condone such a huge delay...”

24. The High Court in its impugned judgment has categorically arrived at a finding that no sufficient cause has been shown for the purpose of condonation of delay in bringing on record the names of the heirs or legal representatives of the deceased Respondents 2 and 3.

25. The appellants have pleaded about the intimation from their counsel. There is nothing on record to show whether the said intimation was written or oral.

26. In view of the matter, we are of the opinion that it is not a fit case where this Court should exercise its discretionary jurisdiction under Article 136 of the Constitution of India. This appeal is dismissed accordingly.”

15. In view of the above, the Writ Petition stands dismissed as abated. The Civil Application accordingly stands disposed of.

(ABHAY AHUJA, J.)