



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

WRIT PETITION NO. 979 OF 2026

MADANLAL S/O CHANDULAL CHHAJED AND OTHERS
VS
BABURAO S/O SADASHIV GAIKWAD AND ANOTHER

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

Court's or Judge's orders

Mr. A. J. Thakkar, counsel for the petitioners.

CORAM : NANDESH S. DESHPANDE, J.
DATED : 18.03.2026

1. The present petition filed under Article 227 of the Constitution of India takes exception to the order dated 04.02.2025 passed below Exh. 227 in R.C.S. No. 41/2011 passed by the Civil Judge, Junior Division, Sindkhed (Raja). It also further prays for a directions to reject the application at Exh. 227.

2. As can be seen from the facts stated in the petition, on 26.12.2019, the suit filed by the respondents for declaration, the sole defendant Chandulal has passed away.

3. On 19.12.2023, the respondent / plaintiffs, after about more than three years and six months, had filed an application at Exh. 226 for setting aside abatement of suit along with an application for condonation of delay. In the said application, it was contended that they were not aware about the death of deceased Chandulal. In spite of the fact that both the parties were residing in adjoining villages, the

death was never informed. The petitioners herein, on 29.08.2024, appeared and filed a detailed reply alongwith a certificate of Grampanchayat.

4. On 04.02.2025, the trial Court passed an order thereby allowing the application and granting permission for substituting the legal representative of the defendant and setting aside abatement.

5. I have heard Mr. A. J. Thakkar, who, by taking us through the contentions advanced before the trial Court as also the grounds raised in the memo of petition, submitted that the trial Court did not consider that even though it is a settled principle of law that the question of limitation has to be construed legally, in the present case there was no reason to condone the delay as such.

6. I have gone through the order of the trial Court, and the trial Court has, in detail, considered various aspects of the matter. The said order also considers that even though the application is time-barred under Article 120 and 121 of the Limitation Act, the limitation would begin to run from the date of the knowledge.

7. After going through the impugned order, I find no perversity in the order impugned, and the petition is devoid of merits and is liable to be rejected and is rejected as such.

(NANDESH S. DESHPANDE, J.)