



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

CROSS OBJECTION ST. NO.171 OF 2017

IN

SECOND APPEAL NO.469 OF 2014

Likhiram S/o Kisanji Nagpure (dead) through LR's. **.Vs.** Patiram S/o Kishanji Nagpure
(Dead) and others

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

Court's or Judge's Order

Mr. S.G. Karmarkar, Advocate for applicants/appellants.

Mr. M.R. Joharapurkar, Advocate for non-applicants/respondents.

CORAM : ROHIT W. JOSHI, J.

DATE : 23/01/2026

1) CIVIL APPLICATION (CAO) NO.57 OF 2026

1. The appellant No.1 in Cross-Objection has expired on 18.07.2023. This is an application for condonation of delay of 763 days in filing application for bringing her legal representatives on record. Although the delay is inordinate, it must be stated that the appeal is of the year 2014. It is admitted and it is pending for hearing. It is understandable that when proceedings in the nature of appeal are admitted and pending for years together, there is a communication gap between the advocate and the client. Moreover, appeals of early years are also pending for final hearing. In view of the circumstances, the delay has not adversely affected the prospects of the final hearing of the appeal.

2. In view of the aforesaid, delay caused in filing application for bringing legal representatives of deceased appellant No.1 is condoned. Having regard to the delay,

costs of Rs.5,000/- to be deposited in the account of “**Public Welfare Account**” bearing Account No.129112010001014 IFSC Code : UBIN0812978.

3. Necessary amendment be carried out on or before 06.02.2025.

2) CIVIL APPLICATION (CAO) NO.60 OF 2026

1. The appellant No.7 in Cross-Objection has expired on 02.11.2021. This is an application for condonation of delay of 1243 days in filing application for bringing her legal representatives on record. Although the delay is inordinate, it must be stated that the appeal is of the year 2014. It is admitted and it is pending for hearing. It is understandable that when proceedings in the nature of appeal are admitted and pending for years together, there is a communication gap between the advocate and the client. Moreover, appeals of early years are also pending for final hearing. In view of the circumstances, the delay has not adversely affected the prospects of the final hearing of the appeal.

2. In view of the aforesaid, delay caused in filing application for bringing legal representatives of deceased appellant No.1 is condoned. Having regard to the delay, costs of Rs.5,000/- to be deposited in the account of “**Public Welfare Account**” bearing Account No.129112010001014 IFSC Code : UBIN0812978.

3. Necessary amendment be carried out on or before **06.02.2025**.

3) CIVIL APPLICATION (CAO) NOS.58 AND 56 OF 2026

1. The cross-objector Nos.1 and 7 have expired. Civil Application (CAO) No.58 of 2026 is filed for setting aside abatement of cross-objection against them. Civil Application (CAO) No.56 of 2026 is filed for bringing their legal representatives on record. Applications for condonation of delay in filing application for bringing legal representatives on record i.e. Civil Application (CAO) No.57 of 2026 and Civil Application (CAO) No.60 of 2026 are allowed.

2. In view of the above, application for setting aside abatement of cross-objection against cross-objector Nos.1 and 7 is **allowed** and permission is granted to bring the legal representatives of deceased Cross-Objector Nos.1 and 7 is granted. Civil applications are **disposed of**.

3. Necessary amendment be carried out on or before **06.02.2026**.

4) CIVIL APPLICATION (CAO) Nos.438 AND 439 OF 2021

1. The appellant No.21 in cross-objection has expired. The applications are filed for setting aside abatement against cross-objector No.21 and to substitute the appellants as legal representatives of Cross-Objector No.21 on record. There is a delay of around 8 days in filing the application. For the reasons mentioned in the applications, delay caused in filing application for bringing

legal representatives of Cross-objector No.21 is condoned, abatement against Cross-Objector No.21 is set aside and permission is granted to bring the legal representatives of deceased Cross-Objector No.21 on record.

2. Necessary amendment be carried out on or before **06.02.2026**.

5) SECOND APPEAL 469 OF 2014

1. Respondent No.1-B/Smt. Prabhabai W/o Bhaiyalal Lilhare, Respondent No.1-C(vi)/Smt. Vidya W/o Dayaram Machhirkar and Respondent No.5/Shaileshkumar S/o Dongruprasad Nagpure, have expired. They have also filed cross-objection. Applications for bringing their legal representatives on record in cross-objection are allowed. Although the appellants have not filed separate applications for bringing their legal representatives on record, the learned Advocate for the appellants makes an oral motion seeking condonation of delay, setting aside abatement and permission to bring the legal representatives of the aforesaid deceased respondents on record.

2. In normal circumstances, it was necessary for the appellants to file separate applications however since the applications filed for the said purpose in cross-objection are allowed, on an oral motion made by the learned Advocate for the appellants, permission is granted to bring legal representatives of aforesaid deceased Respondent No.1-B Smt. Prabhabai W/o Bhaiyalal Lilhare, Respondent

No.1-C(vi) Smt. Vidya W/o Dayaram Machhirkar and Respondent No.5/Shailashkumar S/o Dongruprasad Nagpure on record.

3. Having regard to the fact that the appellants have not made any applications for bringing legal representatives on record as also for condonation of delay caused, costs of Rs.15,000/- are imposed. Costs of Rs.15,000/- to be deposited in the account of “**Public Welfare Account**” bearing Account No.129112010001014 IFSC Code : UBIN0812978.

4. Necessary amendment be carried out on or before **06.02.2026**.

5. Mr. Joharapurkar, learned Advocate for the cross-objector waives service of notice for all the legal representatives of deceased Respondent No.1-B Smt. Prabhabei W/o Bhaiyalal Lilhare, Respondent No.1-C(vi) Smt. Vidya W/o Dayaram Machhirkar and Respondent No.5/Shailashkumar S/o Dongruprasad Nagpure.

6. List the second appeal for final hearing in the week commencing from **09.03.2026**.

6) CIVIL APPLICATION (CAO) NO.59 OF 2026

1. This is an application seeking permission to add the *lis pendens* transferee of the suit properties as respondents in the cross-objection. It appears from the contents of the application that the proposed respondents have purchased two suit properties during the pendency of the present appeal. In view of the above, application for

addition of parties is **allowed**. Necessary amendment be carried out on or before **06.02.2026**.

2. Issue notice to the newly added respondents, returnable in **12.03.2026**.

3. The appellants are directed to serve the newly added parties by speed post in addition to regular mode of service and file affidavit of service before the returnable date.

7) CIVIL APPLICATION (CAO) NO.55 OF 2026

1. The present second appeal arises out of a suit for partition and separate possession. The appeal is admitted for final hearing. The applicants who have filed a cross-objection in second appeal state that the respondents in cross-objection are creating third party interest over the suit property. The documents filed on record indicate that two of the suit properties are already alienated pending second appeal. It is stated that there is a likelihood of another property being alienated. Since the appeal is pending for final hearing, it is appropriate that the suit properties are preserved and parties are directed to maintain *status quo* with respect to the suit properties. Application for temporary injunction is **allowed**. Both the sides are restrained from creating any third party interest over the suit properties till the final disposal of the appeal likewise parties shall maintain status quo with respect to possession of the

suit properties till the final disposal of the appeal. Civil Application is **disposed of**.

(ROHIT W. JOSHI, J)

C.L. Dhakate