

ORDER BELOW EXH.-23
IN
REGULAR CIVIL APPEAL NO. 85 / 2024

- 1) The Appellant has filed the present application under Order 22, Rule 9 of the Code of Civil Procedure, 1908, read with Section 5 of the Limitation Act, praying for condonation of delay of 9 months and 17 days in bringing on record the legal heirs of deceased Respondent No. 11 and for setting aside the abatement caused due to his death.
- 2) It is submitted that Respondent No. 11 expired on 30.06.2024 during the pendency of this appeal. The Appellant has further submitted that the fact of death came to his knowledge recently (death certificate Mark-22/1) and due to such circumstances, the Appellant could not move an application within the prescribed period.
- 3) I have heard the learned advocate for the parties. Perused the record of the case. The reasons stated in the application appear to be bonafide and sufficient to condone the delay. The delay of 9 months and 17 days is accordingly condoned under Section 5 of the Limitation Act.
- 4) Consequently, the abatement which has taken place against Respondent No. 11 is hereby set aside under Order 22, Rule 9 of C.P.C.
- 5) Without joining of the parties, there would be no proper adjudication of the order and decree, therefore, the heirs of the deceased are required to be joined. The legal heirs of deceased Respondent No. 11, as mentioned in the application, are permitted to be brought on record as party-respondents in this appeal. Hence, following order is passed:-

:: O R D E R ::

- The delay of 9 months and 17 days for joining the heirs of the respondent No.11 is hereby condoned.
- Necessary amendment be made in the appeal memo and copy of the amended appeal memo shall be provided to the respondents.

Signed and Pronounced in the open Court today on 22nd day of August, 2025.

Date : 22.08.2025

Place : Veraval.

(Vikramsingh B. Gohil)
Principal District Judge
Veraval.
(Code : GJ-01042)