

**ORDER BELOW EXH.19 IN REG. CIVIL APPEAL NO.8/2015 :**  
(Namdeo Khasbage Vs Rama Pise)

1) Present application has been filed for condonation of delay to take on record legal heirs of respondent No.5. According to the appellant, after Advocate for respondent has filed pursis intimating the Court regarding the death of respondent No.5, the Death-extract was not available early, hence there is delay in moving the application.

2) Notice has been issued to the proposed legal heirs of respondent No.5. They have been duly served. They failed to appear in the matter. The other respondents have contested the application on the ground that the reason given in the application is not just and proper. Subject to cost, application be allowed.

3) Heard both the sides. I have gone through the application. The death-extract of respondent No.5 Vithoba Jayappa Khasbage is produced at Exh.24. As per the death-extract, he died on 9-9-2017. Present application has been moved on 15-3-2019. Considering the grounds in the application, supporting affidavit, I find that the appellant has made out sufficient ground to condone the delay. Furthermore, I find that the original suit is for partition and hence cause of action survives. The proposed legal heirs of respondent No.5 are necessary parties to this appeal. However, considering the delay, I find that it is just to saddle the appellant with cost. Hence, following order :

## ORDER

1. Application Exh.19 is allowed.
2. The delay of 1 year 4 months is hereby condoned subject to cost of Rs.300/- (Rs.Three Hundred).
3. Cost be paid to the respondent.

VADUJ.  
21<sup>st</sup> June, 2019.

( D.D.Kurulkar )  
Ad-hoc District Judge – 1, VADUJ.