

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/CIVIL APPLICATION (FOR CONDONATION OF DELAY)****NO. 3433 of 2025****In F/FIRST APPEAL/16724/2025**

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THE DEPUTY COLLECTOR SHRI &amp; ORS.

Versus

KALUBHAI SHANABHAI

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Appearance:

MS SHRUNJAL SHAH AGP for the Applicant(s) No. 1,2,3

UNSERVED EXPIRED (R) for the Respondent(s) No. 1

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CORAM: **HONOURABLE MR. JUSTICE BHARGAV D.****KARIA**

and

**HONOURABLE MR. JUSTICE L. S. PIRZADA****Date : 05/05/2026****ORAL ORDER****(PER : HONOURABLE MR. JUSTICE BHARGAV D. KARIA)**

1. Heard learned Assistant Government Pleader Ms. Shrunjal Shah appearing for the applicants.
2. This Court issued Rule in this application for condonation of delay, however, it is reported that the respondent claimant expired during the pendency of the reference.
3. Learned Assistant Government Pleader Ms. Shrunjal

Shah has filed an additional affidavit to bring to the notice of the Court that the reference Court is not accepting the application filed by the applicants to amend the decree.

4. In view of the decision of this Court in the case of Deputy Collector and Land Acquisition Officer Versus Patel Parsottambhai Pragjibhai dated 07.08.2019 rendered in Civil Application No.305 of 2019 in F/First Appeal No.29491 of 2018 and other allied matters wherein the Division Bench of this Court has held as under:

*“25.1 In light of the foregoing discussion and for reasons mentioned above, we dispose of captioned applications as not maintainable in light of the provisions under Order XXII and in light of the fact that in all cases, the abatement subsists and it would be for the learned reference Court (where abatement occurred) to set aside the abatement upon submission of appropriate application in accordance with the procedure prescribed under Order XXII. Orders accordingly.”*

5. It was submitted that the reference Court therefore, may be directed to accept the application as per the decision of this Court for setting aside the abatement and thereafter, amend the decree by impleading the legal heirs of the sole claimant.

6. Considering the above submissions, reference Court is directed to accept the application dated 27.03.2026 filed by the applicants to set aside the abatement and to implead the legal heirs of the respondent claimant and amend the decree accordingly after verifying the facts and proof regarding the heirship.
7. Stand over to 30.06.2026.

**(BHARGAV D. KARIA, J)**

**(L. S. PIRZADA, J)**

*DIKSHA*