

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CIVIL APPLICATION (FOR LEAVE TO APPEAL) NO. 4207 of 2024****In F/SECOND APPEAL/17325/2024****With****CIVIL APPLICATION (FOR BRINGING HEIRS) NO. 1 of 2025
In R/CIVIL APPLICATION NO. 4207 of 2024****With****CIVIL APPLICATION (FOR CONDONATION OF DELAY) NO. 2 of 2025
In CIVIL APPLICATION (FOR BRINGING HEIRS) NO. 1 of 2025
In R/CIVIL APPLICATION NO. 4207 of 2024****=====**
L H OF SUGANDHABAI YASHWANTRAO CHAUDHARY & ORS.**Versus****SHOBHANABEN D/O. VISHWASRAO & ORS.**
=====**Appearance:****KAUSHAL H PATEL(9328) for the Applicant(s) No.****1,1.1,1.2,1.3,1.4,1.5,1.5.1,1.5.2,1.5.3****MR UMANG R SHAH(12013) for the Applicant(s) No.****1,1.1,1.2,1.3,1.4,1.5,1.5.1,1.5.2,1.5.3****NOTICE SERVED for the Respondent(s) No. 1****UNSERVED EXPIRED (N) for the Respondent(s) No. 2****VAIBHAV V GOSWAMY(9019) for the Respondent(s) No. 3**
=====**CORAM:HONOURABLE MR. JUSTICE DEVAN M. DESAI****Date : 07/05/2026****ORAL ORDER****ORDER IN CIVIL APPLICATION (FOR CONDONATION OF DELAY):**

1. Heard learned advocate Mr. Umang R. Shah for the applicants and learned advocate Mr. Vaibhav Goswamy for the respondent No.3. Though served, none appeared for and on behalf of respondent Nos.1 and 2.

2. This application is filed under Section 5 of the Limitation Act, 1963 for praying to condone the delay of 1778 days which has taken place in filing Civil Application (For bringing legal heirs).

3. It is submitted by learned advocate for the applicants that

original opponent No.2 – Ghanshyam Bhalerao expired on 12.5.2020 and the death certificate received from the authority on 3.6.2025. It is further contended that the the legal heirs of the deceased were not aware about the proceedings and, therefore, the necessary application could not be filed in bringing legal heirs and, therefore, learned advocate for the applicants has prayed this Court to allow this application. No other submissions are made except the above.

4. Per contra, learned advocate for the respondent has objected in granting application and submitted that the original claimant has expired on 12.5.2020, despite the said fact, the applicants remained negligent and did not file an application before the learned Reference Court. Explanation which has been tendered in the application is not sufficient and, therefore, the application may be rejected.

5. Having considered the contentions and averments made in the application, the delay in preferring the Civil Application is not intentional and there is no lethargy or negligence on the part of the applicants. It appears from the averments made in the application that the deceased expired on 12.5.2020, however, the applicants were not knowing about the death of opponent No.2. The applicants came to know about the factum of death when a notice issued by this Court was served upon opponent No.2. The time was consumed for procuring details of legal heirs and a copy of death certificate from the Corporation. The copy of death certificate was procured on 3.6.2025. The cause showing condonation of delay seems reasonable and sufficient. Therefore, in the interest of justice, this application is allowed. Delay is condoned. No order as to costs.

ORDER IN CIVIL APPLICATION (FOR BRINGING HEIRS):

1. Heard learned advocates for the respective parties. Perused the record.

2. This application is filed for bringing legal heirs of the deceased original opponent No.2 – Ghanshyam Bhalerao on record of the Civil Application (For Leave to Appeal), who expired on 12.5.2020. The death certificate is produced on record.

3. Learned advocate for the applicants has submitted that the heirs of the deceased are required to be brought on record of the appeal in view of the fact that the Civil Application (For Leave to Appeal) would be futile if the heirs of the deceased are not brought on record. Learned advocate for the respondent/s has 'no objection' if this application is allowed.

4. In view of the averments made in the application, the application deserves to be allowed and the same is allowed in terms of paragraph No.8(C). The necessary amendment to be carried out accordingly. No order as to costs.

**ORDER IN CIVIL APPLICATION (FOR LEAVE TO APPEAL)
NO. 4207 of 2024:**

Stand over to 20.8.2026.

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(D. M. DESAI,J)