

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SECOND APPEAL NO. 65 of 2011****With****CIVIL APPLICATION (FOR CONDONATION OF DELAY) NO. 5 of 2025****In CIVIL APPLICATION (FOR BRINGING HEIRS) NO. 4 of 2025****In R/SECOND APPEAL NO. 65 of 2011****With****CIVIL APPLICATION (FOR BRINGING HEIRS) NO. 4 of 2025****In R/SECOND APPEAL NO. 65 of 2011**

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LEGAL HEIRS OF DECD.ISHWARBHAI V DESAI MADHUBEN I
 DESAI(DECD & ORS.

Versus**RAMANLAL VASANJI DESAI (DECD.) THROUGH LEGAL HEIRS & ORS.****Appearance:****(5295) for the Appellant(s) No. 2****MR DAKSHESH MEHTA(2430) for the Appellant(s) No. 1,2.1,2.2,2.3,3,4****MR AJAY R MEHTA(453) for the Respondent(s) No.****1.1,1.2.1,1.2.2,1.2.3,1.3,2,3.1,3.2,3.3,4.1,4.1.4,4.1.5,4.2,4.3,4.4**

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CORAM:HONOURABLE MR. JUSTICE DEVAN M. DESAI

Date : 24/03/2026**ORAL ORDER****Order in C.A. No. 5 of 2025 (For Condonation of Delay):**

1. The present application is filed under Section 5 of the Limitation Act, 1963, for condonation of delay of 288 days in preferring an application for bringing the legal heirs of deceased – appellant No. 4 on record.

2. Heard learned advocate Mr. Dakshesh Mehta for the applicants and learned advocate Mr. Ajay Mehta for the respondents.

3. Learned advocate for the applicants submits that appellant No. 4 has passed away during the pendency of the present

Second Appeal. The applicants are having no legal knowledge and as time was consumed in obtaining the pedigree as well as the death certificate from the competent authority, and therefore, the application for bringing the legal heirs could not be preferred within the prescribed period of limitation. It is further prayed that delay may be condoned as the delay is not intentional on the part of the applicants. Except above, no other submissions were made by learned advocate for the applicants.

4. Per contra, learned advocate for the respondents has no objection if the present application is allowed. Except above, no other submissions were made by learned advocate for the respondents.

5. Considering the averments made in the application and the submissions canvassed by the learned advocate for the applicants, sufficient cause is made out for condonation of delay.

6. Therefore, in the larger interest of justice, the delay is condoned. The present Civil Application is disposed of accordingly.

Order in C.A. No. 4 of 2025 (for Bringing Heirs):

1. The present application is filed for bringing the legal heirs of the deceased – appellant No. 4 on record. The death certificate is produced on record.

2. Learned advocate Mr. Dakshesh Mehta submitted that the heirs of the deceased appellant No. 4 are required to be brought on record in the main matter, in view of the fact that the main matter, being Second Appeal No. 65 of 2011, would be rendered futile if the heirs of the deceased are not brought on record.

3. In view of the averments made in the application and having considered the submissions made by the learned advocate for the applicant, the heirs of the deceased appellant No. 4 are found to be necessary parties. Hence, the present application deserves to be allowed, and the same is hereby allowed. Necessary amendment is ordered to be carried out forthwith.

Order in S.A. 65 of 2011:

1. Upon joint request of learned advocates for both the parties, the proceedings of the present matter are hereby referred to the Gujarat High Court Mediation Center.

2. The Gujarat High Court Mediation Center, after hearing the parties, shall try to resolve the dispute, prepare a report, and place it before this Court within a period of one month from the date of receipt of this order.

MUSKAN

(D. M. DESAI,J)