

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 423 OF 2012

Cawas Rustom Nazir and another ... Appellants

Versus

State of Maharashtra and another ... Respondents

WITH

INTERIM APPLICATION NO. 86 OF 2026

IN

FIRST APPEAL NO. 423 OF 2012

.....

Mr. Zain A.K. Najam-es-sani instructed by Maneksha & Sethna,
Advocate for the Appellants.

Ms. Ruchi Vijay Patil instructed by Mr. Yogesh Patil, Advocate for the
Respondent No.2.

Mr. A.R. Patil, Additional Government Pleader for the State.

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CORAM : ABHAY AHUJA, J.

DATE : 17 FEBRUARY 2026

PC. :**Interim Application No.86 of 2026 :**

1. This Interim Application seeks to bring on record the heirs/legal representatives of the deceased Appellant No.1 after setting aside the abatement after condoning the delay of 1361 days in taking out the Application.

2. Mr. Zain, learned Counsel, appears for the Applicants and submits that the Application has been taken out by the only legal representative of the deceased Appellant No.1 and that service has also been effected on the other parties.

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3. Mr. Zain draws this Court's attention to paragraphs 3 to 6 in the Application to explain the delay.

4. Learned Counsel appearing for the State and for the Respondent No.2 – Acquiring Body only raise formal objection, submitting that in the event this Court is inclined to allow the Interim Application, costs may be imposed which may be given to the charity.

5. Having heard the learned Counsel for the Applicant as well as the Respondents and having considered the explanation for the delay in paragraphs 3 to 6, this Court is of the view that although the said explanation cannot be said to be satisfactory, however in order that the claim to be heard on merits, the Application be allowed, subject to payment of costs.

6. Accordingly, subject to payment of costs of Rs.10,000/- to the Kirtikar Law Library within a period of two weeks, the Interim Application is allowed : the delay of 1361 days is condoned, the abatement is set aside and the Appeal and the proceedings be amended as per the Schedule, within a period of two weeks.

7. Let the amended proceedings be served within a period of two weeks thereafter and an appropriate affidavit of service be filed.

8. The Interim Application is accordingly allowed and disposed as above.

First Appeal No.423 of 2012 :

9. List the First Appeal for hearing on **8th April 2026.**

(ABHAY AHUJA, J.)