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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1047 OF 1998

Smt. Fatimabibi Giyasuddin Daphedar ... Petitioner

Versus

Mohamad Aslam Rukmuddin Parkar and others ... Respondents

WITH

INTERIM APPLICATION NO. 11127 OF 2024

IN

WRIT PETITION NO. 1047 OF 1998

.....
Mr. J.M. Joshi, Advocate for the Petitioner.
Mr. Aditya Mhatre, Advocate for the Respondents No.1 and 3.

.....
CORAM : ABHAY AHUJA, J.

DATE : 4 MARCH 2026

PC. :

Interim Application No.11127 of 2024 :

1. This Interim Application seeks to bring on record the heirs of the deceased Petitioner No.1/3 after condoning a delay of 2104 days.
2. Mr. Joshi, learned Counsel, appears for the Applicant and submits that the delay has occasioned, in as much as the death of the Petitioner No.1.3 was informed only at the meeting with the Advocates in the month of June 2024 although the death occurred on 25th June 2018 as the Applicants were unaware of the procedure to be followed

after death of the Petitioner No.1.3. That as soon as the death of the Petitioner No.1.3 was informed and death certificate and details of the legal heirs were furnished, the application was filed in June 2024. That there is no deliberate or intentional delay in filing the Application. It is submitted that the Applicants have a good case on merits if the application is allowed after condoning the delay.

3. Mr. Mhatre, learned Counsel, appears for the Respondents and submits on instructions that his clients have no objection if the said application is allowed, pending the settlement talks to resolve the entire Writ Petition and therefore no reply is necessary.

4. Having heard the learned Counsel and having perused the application and noting that although the death of the original Petitioner No.1.3 occurred on 25th June 2018 being unaware of the procedure, the death of the Petitioner No.1.3 was informed only during the meeting/discussion with the Advocate in the month of June 2018 and soon thereafter the Application has been filed. The Respondents also have no objection as noted above. The delay in my view does not appear to be intentional or deliberate or out of any negligence but due to ignorance of the Petitioners to the necessity of informing about the death of Petitioner No.1.3 to the Advocates.

5. Accordingly, having heard the learned Counsel and having considered their submissions, this Court is of the view that in view of sufficient cause explained delay be condoned and the Application be allowed in terms of prayer clause (b), which reads thus :

(b) This Hon'ble Court be pleased to allow the present Application for bringing the Legal Heirs of the deceased Original Petitioner No.1.3 namely Mr. Hafeeja Abdula Dafedar on record, thereby setting aside the order of abatement passed, if any and further permit the Applicants to carry out the necessary amendment in the cause title of the Writ Petition.

6. The delay is hereby condoned. The abatement is set aside.
7. Let the heirs/legal representatives of deceased Petitioner No.1.3 be brought on record.
8. Let the amendments be carried out within a period of three weeks and the amended proceedings be served and an appropriate affidavit of service be filed.
9. Interim Application accordingly stands allowed and disposed as above.
10. List the Writ Petition on **2nd April 2026**.

(ABHAY AHUJA, J.)