

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

18 CIVIL APPLICATION NO. 8083 OF 2012
,In SA/1355/2004

VITHAL DATTATRYA WAGHMARE, DIED THR. L.RS. SHANTABAI AND
ORS
VERSUS
GULAB DATTATRAYA WAGHMARE

...
Advocate for Applicant : Mr. Gastgar Santosh B.
Advocate for Respondent : Mr. V.N. Patil

...
CORAM : S.B. DESHMUKH, J.
Dated: September 28, 2012
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PER COURT :-

Heard learned counsel for respective parties. This Civil Application is filed by legal heirs of sole appellant Vithal making two folds prayers namely (i) for restoration of Second Appeal No. 1355 of 2004 in its original position by recalling order dated 17.03.2010 and (ii) for condonation of delay of 984 days occurred in filing Civil Application for bringing legal heirs of deceased Vithal.

2. Learned counsel Mr. S.B. Gastgar, learned counsel for applicant submits that legal heirs of original appellant Vithal have filed suit bearing Regular Civil Suit No. 128 of 2010 against respondents for partition and separate possession of lands described in paragraph No. 5 of Civil Application. It is in this view of the matter, applicants have moved this application. In paragraph No. 4 of this Civil Application, applicants have given undertaking that they will remove all the office objections within four weeks. Even though, there is no reply filed by respondents, I have heard Mr. V.N. Patil, learned counsel for Respondent.

3. In view of the facts and circumstances, I am inclined to allow this Civil Application.

4. Civil Application is allowed in terms of prayer clauses `A`, `B`, `C` and `D` and disposed of.

sga

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5. Necessary amendment/correction be carried out within one week from today.

6. Mr. V.N. Patil submits that today's cause list shows that Advocate Mr. V.B. Garud appears for Respondent. He submits that he has filed V.P. on behalf of Respondent. Statement is accepted and taken on record. Registry to take note.

(S.B. DESHMUKH, J.)

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