

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

928. CA/2570/2011 In RAST/2602/2011 In SA/517/1998

SITARAM KISHANRAO PAPPU AND ANR.
V/S
SUBHASH BAPURAO PATIL

Mr. P.G. Godhamgaonkar, Advocate for applicants.

Mr. P.V. Mandlik, Senior Counsel i/b. Mr. Amol Gandhi, Advocate
for respondent.

CORAM : T.V. NALAWADE, J.
DATED : 15th October, 2015.

ORDER :

1. The application is filed for condonation of delay of 2077 days caused in filing the review application against the judgment delivered by this Court in Second Appeal No.517/1998.

Both the sides are heard.

2. The learned counsel for the applicants, original defendants submitted that after the decision of the second appeal, the applicants succeeded in tenancy matter and the tenancy Court rejected the application filed by the present respondents for declaration that they are the tenants. He submitted that in view of this development, the decision of this Court needs to be reviewed.

3. It was a suit for injunction and for getting this relief, the plaintiff was required to prove that he was in possession and it was well settled. The findings of the Court are in his favour and so, he got the relief of injunction. The possession or the right on the basis of which he got the possession is different matter. In that case also, the learned Senior Counsel for respondent submitted that the decision given by Tahsildar, tenancy Court in respect of declaration of tenancy of respondent is set aside by the first appellate Court and so that decision is not in existence.

4. In any case, when the respondent plaintiff has proved the possession, proper course which is open is to file appropriate proceeding to get back the possession. The submissions made show that subsequently, R.C.S. No.22/2014 is filed by the present applicant for the relief of possession. In view of these circumstances, it is not possible to review the previous decision.

5. In view of the aforesaid discussion, this Court holds that the delay of around 7 years does not deserve to be condoned. For getting the relief of condonation of delay the applicant is required not only to show that he has 'sufficient cause', but he is expected to show that he has some case. He

placed reliance on the case reported as **AIR 2005 SUPREME COURT 592 [Board of Control for Cricket, India and another Vs. Netaji Cricket Club and Ors.]**. In the present case, this Court holds that 'sufficient cause' is not shown and further, the delay does not deserve to be condoned as no case is made out.

6. In the result, the delay condonation application is rejected.

[T.V. NALAWADE, J.]

SSC/