

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO.55 OF 2010

Amrutrao Shankarrao Deshmukh,
Age 80 years, occ. Agri.,
R/o. Parli Vaijnath,
Tq.Parli Vaijnath, Dist.Beed ..Applicant

Versus

- 1] Kantilal s/o. Lalchand Bora,
Age 54 years, occ.Medical
Practitioner, r/o. Padmavati
Galli, Parli Vaijnath,
at presently Near Railway
Station, Dhule
- 2] Shantilal Lalchand Bora,
Age 57 years, occ. Agri.,
r/o. Padmavati Galli,
Near Girls High School,
Parli Vaijnath, Tq. Parli
Vaijnath, Dist.Beed.
- 3] Hiralal Lalchand Bora,
Age 47 years, occ. Agri.,
r/o. Padmavati Galli,
Near Girls High School,
Parli Vaijnath, Tq.Parli
Vaijnath, Dist.Beed
- 4] Papalal Lalchand Bora,
Age 41 years, occ.Agri.,
r/o. Padmavati Galli,
Near Girls High School,
Parli Vaijnath, Dist.Beed

5] Manakchand Lalchand Bira,
Age 44 years, occ. Agri.,
at present r/o. Nageshwarwadi,
Aurangabad, Tq. and Dist.
Aurangabad ..Respondents

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Mr.S.K.Shinde, advocate for applicant
Mr.A.S.Sawant, advocate for respondent nos.1 to 5
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WITH
CIVIL APPLICTION NO.15184 OF 2013
IN
CIVIL REVISION APPLICATION NO.55 OF 2010

Kantilal Lalchand Bora
and ors. ..Applicants

versus

Amrutrao Shankarrao Deshmukh ..Respondent

--
Mr.A.S.Sawant, advocate for applicants
Mr.S.K.Shinde, advocate for respondent no.1
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CORAM : M.T. JOSHI, J.
DATE : JUNE 11, 2015

PER COURT :

Heard both sides.

2] The order of learned Ad-hoc District Judge-1, Ambajogai passed in Misc. Civil Application no.77 of 2009 condoning delay caused in filing appeal against the *ex-parte* decree, is challenged in the present Revision.

3] The petitioners filed a suit for declaration of title and perpetual injunction in respect of the suit property in the year 2001. The present respondents filed written statement in the said suit. Thereafter, however, they remained absent and ultimately, the evidence from the side of the petitioner was recorded and the suit was decreed on 26th April, 2007.

4] Thereafter, present respondents filed an appeal challenging the said *ex-parte* decree as well as an application for condonation of delay caused in preferring the appeal. The delay was sought to be condoned on the ground that the

respondents' advocate did not inform them about progress in the suit and that wife of the respondent no.2 was suffering from chronic disease. Said plea was opposed by the present petitioner.

5] Learned Ad-hoc District Judge-1 appreciated voluminous medical evidence on record and considering that rights of the respondents in the immovable property are involved, condoned the delay, subject to payment of costs of Rs.2,000/-.

6] Upon hearing both sides, in my view, since condonation of delay depends upon the facts and circumstances of each case and since documentary evidence was placed on record by the respondents, there is no need to interfere in the impugned order.

7] In the circumstances, Civil Revision Application stands dismissed without any order as to costs. In view of this, Civil Application does not survive and stands disposed of as such.

[M.T. JOSHI, J.]

kbp