

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 9728 OF 2014
IN SA(ST)/6531/2014

SUMANBAI NAGORAO KAUSADIKAR
VERSUS
PRALHAD NARAYAN BAHIRAT AND ANOTHER

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Advocate for Applicants : Shri Barlinge S.R.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: April 07, 2015

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PER COURT :-

1. Heard.
2. The applicant prays for condonation of 2917 days (about nine years) in filing the Second Appeal for challenging the judgment and order dated 5.12.2005, delivered by the appeal Court in RCA No.148 of 2000.
3. Reasons, in support of the prayer, are set out in the Civil Application, especially in paragraph Nos. 2 and 3. Two grounds have been set out. Firstly, that the applicant, though was the original plaintiff, was dependent upon her brother-in-law Sudhakar Kausadikar for participating in the litigation. Secondly, after Sudhakar Kausadikar died on 1.10.2007, the applicant contacted her Advocate, who was dealing with the litigation. His file was mis-placed. He spent time for tracing out the file. Hence the delay.

4. I have considered the submissions of the learned Advocate for the applicant. I find that the first ground / reason, seeking condonation of delay has to fail since, it is unbelievable that the applicant had little knowledge about the litigation, when she resided in the same area in which Sudhakar Kausadikar was residing. The applicant cannot be said to be totally oblivious of the litigation, which commenced in 1980, through RCS No. 60 of 1980, for the past 27 years till the death of Sudhakar.

5. As regards the second ground, that the lawyer misplaced the file and time was spent in searching for the file, is equally fallacious. No details have been set out. The applicants intend to submit that the lawyer was searching for the file for about six years.

6. Concurrent judgments are being questioned in the Second Appeal. The respondents, by now, must have been sure that the litigation has come to an end. I do not find it appropriate to reopen the litigation after a passage of almost ten years.

7. In the light of the above, I do not find that the applicant has set out any justifiable reason for seeking condonation of delay of 2917 days in filing the Second Appeal.

8. The Civil Application is, therefore, rejected.

(RAVINDRA V. GHUGE, J.)

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