

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 7078 OF 2014
IN SAST/13140/2014

AMRUT PANDOBA BHOSALE
VERSUS
SUBHADRABAI HANUMANT BHOSALE AND ANOTHER

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Advocate for Applicant : Shri N.L.Jadhav

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CORAM : RAVINDRA V. GHUGE, J.
Dated: March 30, 2015

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PER COURT :-

1. Heard.
2. By this application, the applicant prays for condonation of 3102 days (approximately Nine years), caused in filing the Second Appeal.
3. Shri Jadhav, learned Advocate has strenuously contended that the applicant is an 84 years' old person. Though the RCA No.225 of 2004 was dismissed by judgment dated 12.8.2005 upholding / confirming the judgment and decree passed by the trial Court in RCS No.216 of 2000, he did not prefer Second Appeal proceedings till he received notice from the executing Court in relation to the Execution Proceedings in February, 2014. Thereafter, he preferred an application for obtaining a certified copy in March, 2014.
4. Shri Jadhav, learned Advocate further submits that the applicant

suffers from ailments and therefore, was unable to approach this Court in time.

5. Having considered the submissions of the learned Advocate for the applicant, I am unable to be convinced that the delay of practically nine years could be condoned. It is settled law that the length of delay is not as significant as the reasons seeking condonation are. If justifiable and convincing reasons are set out, delay can be condoned.

6. In the present case, the only reason put forth is that after the applicant received Court Notice in February 2014, as regards the Execution Proceedings, he initiated steps for lodging the Second Appeal.

7. The issue before the trial Court was as regards recovery of possession of 18 Ares land, which was proved to be in the possession of the applicant by his act of encroachment. Both the Courts below have held against the applicant. The impugned judgment is dated 12.8.2005 and the judgment of the trial Court is dated 30.10.2004.

8. In this backdrop, I am not inclined to condone the delay. The decree holder must reap the fruits of litigation in view of concurrent judgments in favour of the decree holder. More so, because the applicant has not satisfactorily explained the delay of Nine years.

9. Taking into account the above factors, this Civil Application is devoid of merits and is, therefore, rejected.

(RAVINDRA V. GHUGE, J.)

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