

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

**CIVIL APPLICATION NO. 9011 OF 2015
IN
SECOND APPEAL NO. 766 OF 2005**

Sulbha Laxmikantrao Deshpande **APPLICANT**

V E R S U S

Dr. Laxmikant s/o Narayanrao
Deshpande **RESPONDENTS**

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Mr. S.M.Kulkarni, Advocate for Applicant.

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CORAM : T.V.NALAWADE, J.

DATE : 13th OCTOBER, 2015

ORDER :-

1. The application is filed for condonation of delay of 6 years and 4 months caused in filing application for restoration of Second Appeal No. 766 of 2005, which came to be dismissed for non prosecution on 04/03/2009. The Second Appeal was filed against the decision, by which the decree of restitution of conjugal rights was refused in favour of the present applicant/wife.

2. For condonation of delay not only sufficient cause is required to be shown but the applicant is

required to show that there is some case in the main matter in favour of the applicant.

3. The submissions made show that in the year 2002, decree of judicial separation was given in favour of the husband and that decision has become final. The proceeding for restitution of conjugal rights came in this Court in the year 2005 i.e. after the decree of restitution of conjugal rights. Under the circumstances, it can be said that aforesaid decision was given in favour of the husband, on the basis of which he must have acted further.

4. In view of these circumstances, this Court holds that nothing can be achieved by condoning the delay and restoring the Appeal.

5. In the result, present Civil Application stands rejected.

[T.V.NALAWADE, J.]