

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

CIVIL APPLICATION NO. 607 OF 2009
IN
CIVIL APPLICATION (ST) NO. 21662 OF 2999
IN
SECOND APPEAL NO. 548 of 1989

Mohiuddin S/o Hussainoddin
since deceased through L.Rs. & others ... Applicants

Versus

Muthuappa S/o Bhauappa Shiwale
Since deceased through L.Rs. & others ... Respondents

.....
Mr. Shaikh Ashpak Taher Patel , Advocate for Applicants
Mr. V.C. Solshe, Advocate for respondent Nos. 1-A to 1-D
.....

CORAM : RAVINDRA V. GHUGE, J.

DATED : 13th APRIL, 2015

PER COURT :

1. Office note indicates that the Civil Application is ready for hearing.
2. Shri Patel, learned Advocate appearing on behalf of the applicants / appellants submits that the Second Appeal No. 548 of 1989 has been admitted by order dated 19-12-1989 and grounds at serial No. 1, 3 and 5 are taken as substantial questions of law.

He, therefore, submits that on account of non-removal of office objections, the Registrar has passed the order dated 09-12-2000.

3. He further points out the circumstances set out in the Civil Application in paragraph Nos. 2 to 5. As such, he prays for the condonation of delay and for restoring the Second Appeal.

4. Shri Solshe, learned advocate has strongly opposed the application. He submits that though the Advocate for the applicant has stated that he failed to note the objections and the Board of the Registrar which led to the order at issue, the litigant in this case can be said to be negligent since the litigants/ applicants did not make any effort in keeping a track of their matter. He, therefore, prays that the application for condonation of delay be rejected.

5. I have considered the submissions of both the sides and have gone through the explanation offered. No doubt, the delay is practically of about 8 years and 11 months and the applicants are merely putting the blame on the Advocate. It needs to be noted that the Second Appeal is admitted and was pending final hearing. In this backdrop, I find that ends of justice would be met by

condoning the delay of 2922 days by imposing costs upon the applicant.

6. As such, this application is allowed. Delay of 2922 days caused is condoned subject to costs of Rs. 7500/- to be deposited in this Court within a period of three weeks from today. Upon depositing the costs, the Civil Application Stamp No. 21662/99 be restored after the applicants remove all office objections within two weeks of depositing the costs. Respondent No. 1-A to 1-D can withdraw the costs in equal shares.

7. In the event of non-compliance of this order, the same shall stand recalled and the Civil Application shall stand rejected.

(RAVINDRA V. GHUGE, J.)