

kps

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

**CIVIL APPLICATION NO.529 OF 2014
IN
SECOND APPEAL (STAMP) NO.26979 OF 2013**

Rajaram Kisan Bamnawat.

..Applicant

-Versus-

Vitthal Hiralal Bamnawat.

..Non-Applicant/ Respondent

.....

Mr.A.M.Nagarkar, Advocate for the Applicant.

Mr.PF.Patni, Advocate for the Respondent.

.....

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 23rd March, 2015

Per Court:

1 Heard the learned Advocates appearing for the parties.

2 The Applicant by this application prays for condonation of delay of 172 days caused in lodging of the Second Appeal. The reasons in support of the application for condonation of delay are mentioned in paragraphs 3, 4 and 5.

3 Mr.Patni, learned Advocate for Respondent, has vehemently opposed the application. His contention is that the Applicant is in possession of the suit property. Though the Trial Court has held in favour of the Applicant, the first Appellate Court has set aside the judgment and

has decreed the suit in favour of the Respondent. By delaying the matter, the Applicant continues to enjoy the suit property.

4 I have considered the above situation and the submissions of the learned Advocates. It is not a case of concurrent findings being in favour of the Respondent. The Second Appeal is the last opportunity for the Applicant who had succeeded before the Trial Court and has suffered before the first Appellate Court.

5 In due circumspection, I find that the delay of 172 days deserves to be condoned. As such, this Civil Application is allowed. The delay of 172 days is condoned subject to the Applicant depositing costs of Rs.2000/- (Rupees Two Thousand) in this Court within a period of FOUR WEEKS from today.

6 Failure to deposit the said amount shall result in recalling of this order and the Civil Application shall then stand rejected.

7 After depositing costs, the Second Appeal be registered and further the Respondent is at liberty to withdraw the said amount.

(RAVINDRA V. GHUGE, J.)