

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2604 OF 2014**

Tanaji Arjun Nicham (deceased) through LRS

..Petitioners

Vs.

Kondu Bhadu Janakar

..Respondent

Mr. D. A. Patil i/b Milind Parab & Associates for the Petitioners

CORAM : R. M. SAVANT, J.

DATE : 19th AUGUST, 2015

P.C.

1 The Writ Jurisdiction of this Court is invoked against the order dated 8-11-2013 passed by the Learned Principal District Judge Sindhudurg, Oros, by which order, the application being Misc Application No.53 of 2012, seeking condonation of delay of 16 years 2 months and 2 days in filing the Appeal, came to be rejected.

2 The Petitioners are the heirs of one Tanaji Nicham who was a party Defendant to the Suit in question being Regular Civil Suit No.5 of 1996. The said Suit came to be decreed on 29-6-1996. The said Tanaji Nicham had filed his Written Statement in the Suit, it appears that in the Written Statement he had admitted the claim of the Plaintiff. The said Suit as indicated above came to be decreed on 29-6-1996. It appears that the said Tanaji Nicham expired in the year 1998 and the Petitioners who are his heirs filed an application for

certified copy on 5-6-2012 with a view to file the Appeal and after the said certified copy was obtained that they filed the Appeal in question and since there was a delay of 16 years 2 months and 2 days in filing the Appeal, they sought to justify the said delay on the ground that they were not aware of the decree that was passed in the said Suit. The said ground urged by the Petitioners i.e. the heirs of the said Tanaji Nicham, did not commend acceptance to the Lower Appellate Court. The Lower Appellate Court recorded a finding that it is impossible to believe that the Petitioners though staying with the said Tanaji Nicham were not aware of the Suit being filed and thereafter the Suit being decreed.

3 In my view, having regard to the said huge delay which has taken place in filing the Appeal and considering the reasons put forth by the Petitioners, the order passed by the Lower Appellate court refusing to exercise discretion in favour of the Petitioners, cannot be found fault with. No case for interference in the Writ Jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]