

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

REVIEW PETITION NO. 8 OF 2015
IN
SECOND APPEAL NO. 190 OF 2015

1. Shri. Gajanan Laxman Chavan
since deceased, through his legal heirs
1a. Smt. Ranjana Gajanan Chavan and Ors.

.....Petitioners
(Original Applicant)

: V/S :

1. Shri. Jotiram Baburao Chavan
since deceased through his legal heirs
1a. Vijaya Jotiram Chavan & Ors.

.....Respondents
(Original Respondents)

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Mr. Ravi Kadam, Advocate for the petitioner.

Mr. Prabhanjan Gujar, Advocate for respondents no.1A and 1B.

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Coram :- Smt. R.P. SondurBaldota, J.

10th September, 2015.

P.C. :-

1). This petition for review is directed against the order dated 9th February, 2015 by which the petitioner's application for condonation of delay of 350 days in filing the Second Appeal was dismissed.

2). The applicants are the heirs and legal representatives of original defendant no.5. The order under review notes that the Second

Appeal had become barred by the law of limitation during the lifetime of original defendant no.5 itself and he had not taken any steps whatsoever to challenge the order. Therefore, the heirs of original defendant no.5 could not have challenged the order by seeking to get the delay in filing the Second Appeal condoned. A note was also taken of the fact that after filing his written statement, original defendant no.5 had not participated in the trial of the suit. Later in the appeal proceedings, he had not appeared at all.

3). Mr. Kadam, the learned Advocate appearing for the review petitioners submits that the reason for inaction on the part of original defendant no.5 was that he was suffering from kidney ailments and therefore was unable to appear in the suit, as well as, the appeal proceedings. These facts, though completely within the knowledge of the petitioner had not been pleaded in the application for condonation of delay. There is also no explanation for omitting the same. Consequently, the facts cannot now be brought on record by way of seeking review of the order. Hence, the Review Petition is dismissed.

(SMT. R.P. SONDURBALDOTA, J)