

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**SECOND APPEAL (ST.) NO.40709 OF 2002
WITH
CIVIL APPLICATION NO.1001 OF 2004
WITH
CIVIL APPLICATION NO.129 OF 2011
WITH
CIVIL APPLICATION (ST.) NO.7097 OF 2012**

Prafulla Vasant Pawar & Ors. ... Appellants

V/s.

Madhukar Ganpat Pawar & Ors. ... Respondents

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Mr.M.M. Gawankar i/b. Mr.Sharon Patole, Advocate for the
Appellants.

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CORAM : RAVI K. DESHPANDE, J.

DATED : JULY 13, 2015.

P.C.

Civil Application No.1001 of 2004 seeks condonation of delay of three days in filing an Appeal. Notices were issued on this Civil Application on 19th September, 2014. Civil Application No.129 of 2011, was filed by the appellant setting aside the conditional order dated 18th November, 2010, passed by the Registrar (Judicial) of this Court dismissing the Civil Application in default with a prayer of condonation of 64 days delay of filing

the application for restoration. On 22nd August, 2011, this Court allowed the application, condoned the delay caused and set aside the order of Registrar (Judicial) and the matter was restored. On Civil Application No.1001 of 2004, filed for condonation of three days delay caused in filing Second Appeal, notices were issued on 19th September, 2014. Civil Application Stamp No.7097 of 2012 was filed for deleting the name of appellant no.7 from the cause title of the Second Appeal. The matter was listed before this Court for orders on the Civil Applications on 8th July, 2015 and this Court passed an order to place the matter at serial no.1 on today's Board. Accordingly, the matter is listed today for admission along with all Civil Applications.

2 The learned counsel for the appellants request for grant of adjournment in the matter on the ground that he has not yet received the papers from his client. It is not possible to accept such request. Second Appeal was filed in the year 2002 and since then it is pending for admission without even issuing notice on merits of the matter to the respondents. The learned counsel, therefore, shows his inability to argue the matter on merits. I have gone through the judgment and order passed by the Courts below and also the Memo of Appeal paper book.

Though the trial Court partly decreed the suit holding that the plaintiff was entitled to half share in this suit house excluding Padvi. The Lower Appellate Court has allowed the Appeal filed by the defendant and dismissed the suit. The Lower Appellate Court has taken into consideration the oral as well as documentary evidence placed on record and finding is recorded that the suit house bearing City Survey No.2347 was the ancestral and joint family property of the plaintiff and the defendant and that the plaintiff is therefore entitled to half share in the suit property. The finding of fact is based upon evidence available on record. At any rate, the possible view of the matter and does not give rise to the substantial question of law. The Second Appeal is dismissed.

3 None of the applications filed survive, the same are also dismissed.

(RAVI K. DESHPANDE, J.)