

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6282 OF 2014

Smt. Laxmibai S. Kokane & Ors. .. Petitioners
vs.
Pralhad M. Chavan & Anr. .. Respondents

Mr. Umesh R. Mankapure for Petitioners.
Mr. A. D. Sale for Respondent No. 1.

CORAM : M. S. SONAK, J.
DATE: 18 MARCH 2015

P.C. :-

1] In view of the decision of the Hon'ble Apex Court in the case of *Shyam Sundar Sarma vs. Pannalal Jaiswal & Ors.*¹, the impugned order, which refuses to condone the delay in preferring an appeal, is to be regarded as an order made in the appeal itself. The effect is that the appeal instituted by the petitioners itself stands dismissed.

2] As against such an order, there is remedy by way of institution of a second appeal. Accordingly, this petition cannot be entertained. This petition is therefore dismissed. However, since the petitioners were bonafide pursuing the present petition, the petitioners are at liberty to contend that the time spent for prosecuting the present petition, be taken into consideration for the purposes of condoning the delay in institution of the second appeal.

3] With the aforesaid observations, the present petition is disposed of.