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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1874 OF 2015
IN
SECOND APPEAL NO.418 OF 1991

Sudamrao G. Pisal (since deceased) through L.Rs. - Babasaheb S. Pisal & Ors. V/s. Dhondubai B. Shirke (since deceased) through L.Rs. Anandrao B. Shirke & Ors.	...Applicants ...Respondents
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Mr.Tushar Pimple for the Applicants.

Mr.Vinod Sangvikar i/b Mr.Umesh Mankapure for the Respondent
Nos.1-A.

Mr.K.Y. Mandlik – Earlier Advocate for the Appellant.

CORAM : R.D. DHANUKA, J.
DATE : 4TH DECEMBER, 2015.

P.C. :-

1. Heard learned counsel for both the parties.
2. By this civil application, the applicants seek condonation of delay of over 5 years and seek restoration of the second appeal, which is dismissed in view of the conditional order passed by this Court on 15th September, 2010.
3. Learned counsel for the applicants invited my attention to various reasons recorded in the civil application and submits that the

applicants came to know about the dismissal of the second appeal only after the notice in the Darkhast application was received. The applicants have already removed some of the office objections.

4. Learned counsel for the respondents opposed this civil application on the ground that the delay has not been properly explained by the applicants.

5. I have perused the civil application with the assistance of learned counsel for the applicants. I am of the view that the applicants have rendered some reasons explaining delay. Though some of the reasons are given in the civil application justifying the delay, in my view, those reasons are not fully satisfactory. In my view the interest of justice would be met with if the applicants are directed to pay costs of Rs.20,000/- to the respondents within one week from today as a condition precedent for granting prayer for condonation of delay. The applicants shall produce a copy of the receipt of payment of Rs.20,000/- to the Registrar of this Court immediately upon payment. It is made clear that if the costs of Rs.20,000/- as a condition precedent is not paid by the applicants to the respondents, the order passed today granting prayer for condonation of delay for restoration of the second appeal filed by the applicants to stand vacated and the second appeal to stand dismissed without further reference to the Court.

6. The civil application is made absolute in terms of prayer clauses (a), (b) and (bb). The delay in filing the the civil application is condoned. The second appeal is restored to file. All interim orders which were in force as on the date of dismissal of the second appeal are also restored to file.

7. It is made clear that if all office objections are not removed within a period of four weeks from today, the second appeal shall stand dismissed without further reference to the Court. No extension would be granted for removal of the office objections.

8. In view of the fact that Mr.Pimple had already filed his Vakalatnama on behalf of the applicants, the office is directed to delete the name of Mr.K.Y. Mandlik from the board.

(R.D. DHANUKA, J.)