

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

**CIVIL APPLICATION NO. 760 OF 2014
IN
SECOND APPEAL (ST) NO.2942 OF 2014**

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
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Mr. M.R.Bohra i/b Mr. Sachindra B. Shetye, Advocate for Applicants.
Mr. Rahul Vijay More, Advocate for Respondents No.2A to 2D and 3A to 3F.
Mr. Kamlakar Hanumanta Walve-respondent no.1C present.

CORAM: R.G.KETKAR, J.
DATE : 10/04/2015

PC:

1. Heard Mr. M.R.Bhora, learned counsel for the applicants and Mr. Rahul More, learned counsel for respondents no.2A to 2D and 3A to 3F.

2. This is an application for condonation of delay of 41 days in filing Second Appeal. Respondent no.1C-Kamlakar Hanumant Walve appeared in person and submitted that in the application the only ground made out is that the applicants could not make

financial arrangement for filing the Appeal. He submitted that the husband of applicant no.1-Shantabai Walve was working as police constable. Applicant no.1B Ku.Vasant Walve is gainfully employed. They are also in possession of agricultural land. In short, he submitted that the ground made out in the application for condonation of delay that the applicants could not make financial arrangement, is patently false. He submitted that since ground set out in the application is false, no case is made out for condoning the delay.

3. I have considered the submissions advanced by the learned counsel appearing for the parties.

4. As noted earlier, this is an application for condonation of delay of 45 days caused in filing the Appeal. Having regard to shortness of delay and having further due regard to the case - State of Nagaland Vs. Lipok AO, (2005) 3 SCC 752 wherein it is held by the Apex Court

that what counts is not the length of the delay but the sufficiency of the cause and shortness of the delay is one of the circumstances to be taken into account in using the discretion, I am more than satisfied that the applicants have made out a case for condoning the delay. Hence, Civil Application is allowed in terms of prayer clause (a) with no order as to costs.

5. Office is directed to register Appeal, if it is otherwise ready.

(R.G.KETKAR, J.)