

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 352 OF 2012
IN
SECOND APPEAL (ST) NO. 3073 OF 2012**

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. Surel S. Shah, Advocate for Applicant.

Mr. S.T. Bhosale i/b Dilip Bodake, Advocate for Respondents no.1A to 1C.

CORAM: R.G.KETKAR, J.

DATE : 24/04/2015

PC:

1. Heard Mr. Surel Shah, learned counsel for the applicant and Mr. S.T. Bhosale, learned counsel for respondents no.1A to 1C.

2. This is an application for condonation of delay of 273 days in filing Second Appeal. Mr. Shah submitted that respondent no.1 instituted suit for specific performance of contract. Applicant-defendant no.2 filed counter claim seeking possession. The learned trial Judge decreed the suit for specific performance and dismissed counter

claim. Aggrieved by that decision, the applicant preferred Appeal. The learned District Judge partly allowed the appeal. Learned District Judge dismissed the suit for specific performance and at the same time dismissed the counter claim. Aggrieved by the decision of appellate court, respondent no.1 preferred Second Appeal in this Court. That Appeal was dismissed by this Court on 15.1.2014.

3. On the other hand, Mr. Bhosale invited my attention to paragraph 5 of the reply dated 10.4.2015 filed by Sajjan Bhimrao Kadam and submitted that no sufficient cause is made out.

4. After hearing the learned counsel appearing for the parties as also after considering paragraph 5 of the reply and for the reasons stated in the application, I am satisfied that the applicant has made out sufficient cause 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. It is made clear that I have not expressed any opinion on merits of Second Appeal. All contentions of the parties on merits are expressly kept open.

(R.G.KETKAR, J.)