

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

WRIT PETITION NO.9887 OF 2014

**Bhagwat Rama Gaikwad
Through Miss Sheetal Tejwani
(Power of Attorney Holder) : Petitioner.
Versus
Dattakrupa Sahakari Sansthai
Through Chairman
Rajmanisingh Ramdular Singh and ors. : Respondents.**

Mr. A A Desai for the Petitioner.

**CORAM : R. M. SAVANT, J.
DATE : 26th August 2015**

P.C.

1 The writ jurisdiction of this Court is invoked against the order dated 4/3/2014 passed by the learned District Judge -4 Pune by which order the application for condonation of delay in filing the Appeal came to be dismissed.

2 The Petitioner is the original Defendant No.1 to the suit in question. It appears that the Defendants to the suit who are 300 in numbers had proposed to file an Appeal against the decree dated 7/3/2003 passed in Regular Civil Suit No.1330 of 2002. The said decree according to the Petitioner was passed on the basis of a compromise which was arrived at between the parties and which was entered into by submitting a pursis on behalf of the Defendants that they admit to the suit claim. In so far as the Defendants are

concerned, it is required to be noted that they had appeared in the suit on 18/2/2003 and the suit came to be decreed on 7/3/2003. It is the case of the Defendants that they became aware of the decree when one of them on visit to the revenue office some time in the year 2008 acquired the knowledge of the decree passed in the said suit. It is thereafter that the Defendants took steps to file an Appeal against the said decree and in view of the fact that there was a delay of 5 years and 22 days in filing the Appeal, that an application for condonation of delay was filed. The said application was founded on the fact that the Defendants were not aware of the decree passed and became aware of the same in the year 2008 and immediately thereafter took the steps to obtain certified copies and have filed the Appeal and hence according to them from the date of knowledge, the delay is only of 22 days.

3 The Lower Appellate Court tested the case of the Defendants which included the Petitioner above named, and having regard to case of the Applicants that they suo moto appeared in the suit on 18/2/2003 observed that why the Applicant could not appear thereafter has not been mentioned by them in the applications. The Lower Appellate Court also did not accept the case of the Applicants that they became aware of the decree in the year 2008 when one of them on a visit to the revenue office some time in the year 2008 acquired the knowledge of the decree passed in the said suit. It is not mentioned in the application as to which of the Defendants had visited the

revenue office and therefore the case of the Applicants on that count could not be accepted. It is well settled that in so far as matters of condonation of delay are concerned, a highly technical and pedantic approach has to be avoided and an approach which furthers the cause of justice is required to be adopted. However, at the same time the consideration of the application for condonation of delay has to be judicious and it is only on sufficient cause being shown that the delay can be condoned. In the instant case, the case of the Applicants hardly inspires confidence as though they had appeared in the suit in February 2003, they have not appeared when the decree was passed in the suit and it is unimaginable that the Defendants who are 300 in number did not make any inquiry as regards the fate of the suit. In my view, therefore, no case for interference in the writ jurisdiction of this Court with the order passed by the Lower Appellate Court rejecting the application for condonation of delay is made out. The above Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]