

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.1350 of 2013

In

Second Appeal Stamp Nbo.23840 of 2013

(Pundalika Murlidhar Navgire (Shelar) v. Trambak Murlidhar Navgire
(Shelar) and others)

Office Notes, Memoranda of Coram,
appearances, Court's orders or directions Court's or Judge's orders
and Registrar's order

Shri Swapnil V. Walve, Advocate for Applicant.

Shri B. Mulla, Advocate for Non-Applicant Nos.1 and 2.

Coram : R.K. Deshpande, J.

Dated : 3rd July, 2015

There is a delay of 3 years and 82 days caused in filing the second appeal.

The Trial Court passed a decree on 17-9-2001 granting a declaration that the plaintiff is the exclusive owner of Gat No.87 situated at Village Patoda, Taluka Yeola, District Nashik. The appellant is the original defendant, who has lost the appeal also before the lower Appellate Court. He is the real brother of the plaintiff.

Paras 3 and 4 are in relation to the delay caused in filing the appeal, which are reproduced below :

“3. Applicant submits that due to health problems and due to the old age, the Applicants due to this difficulty he could not take further steps which are to be taken by him for pursuing further proceeding. The Applicant after

advice started making money arrangement from the friends and relatives. Therefore while making arrangement of the monies required to file present Appeal. Thereafter Applicant approached to advocate preferring present Appeal, therefore, the delay has arisen in filing the present second appeal.”

“4. It is submitted that when the applicants met their advocate in the high court, the decision to file present appeal was taken and it took some time for the applicants to arrange for amount of expenses and court fees for filing the present second appeal, hence the delay in filing the appeal has arisen, which is unintentional and not deliberate. The same may kindly be condoned in the interest of justice since the applicant has a good case to succeed on merits.”

The aforesaid averments made in the application are totally vague and do not constitute a sufficient cause for condonation of delay.

The civil application is dismissed.

Judge.

Lanjewar