

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

**CIVIL APPLICATION NO.1608 OF 2014
IN
SECOND APPEAL (ST) NO. 29706 OF 2014
with
CIVIL APPLICATION NO.23 OF 2015**

Rakhamabai Dharma Murudkar Applicant

Vs.

Kanu Narayan Ghosalkar (D/H) Respondents
& Ors.

Mr. Satti N. Reddy, Advocate for the applicant.
Mr. Pratap Patil, Advocate for the Respondents.

Coram : Smt. R.P. SondurBaldota, J.

Date : 14th January, 2015.

P.C.

1 This application is for condonation of delay in preferring the Second Appeal against the order dtd.23rd June, 2014, by which the lower Appellate Court set aside the decree passed by the trial court and remanded the suit for fresh hearing. There is delay of 50 days in filing the Second Appeal. Mr. Patil, the learned advocate for the respondents points out that the Second Appeal has become infructuous, since after the remand not only the hearing of the suit is conducted, but the applicant has participated therein. The applicant

has cross-examined the respondent and examined three witnesses in support of her case. Thereafter, on 1st December, 2014, she filed a pursis stating that the evidence on her behalf is complete. The suit is now posted for arguments. The respondent has annexed copies of the evidence of the witnesses of the applicant, as also his cross-examination on behalf of the applicant and the pursis dtd. 1st December, 2014. It is to be noted that the applicant is represented by an Advocate before the trial Court. In these circumstances, the challenge to the remand by the lower appellate court has become infructuous. In view thereof, the Civil Application for condonation of delay needs to be dismissed as the same will not serve any purpose. Hence, the civil application is dismissed.

2 In view of dismissal of the above Civil Application, the Civil Application No.23 of 2015 does not survive, the same is accordingly disposed off.

(Smt. R.P. SondurBaldota, J.)