

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

CIVIL REVISION APPLICATION NO.1141 OF 2014

Bhaurao Deoram Patil (Jadhav) : Applicant.
Versus
Nandu Bajirao Patil and anr. : Respondents.

Mr. Girish R Agrawal for the Applicant.

CORAM : R. M. SAVANT, J.
DATE : 07th January 2015

P.C.

1 The revisionary jurisdiction of this court is invoked against the order dated 10/10/2014 passed by the learned Ad-hoc District Judge-1, Nashik by which order the application being Misc. Civil Application No.205 of 2013 for condonation of delay of one year in filing the First Appeal came to be allowed subject to costs of Rs.6,000/- imposed on the Applicant and resultantly the said delay came to be condoned.

2 Though it seems that the reasons mentioned by the Applicant in the Application seeking condonation of delay did not commend acceptance to the Lower Appellate Court, the Lower Appellate Court with a view to give an opportunity to the Applicant to prosecute the remedy on merits, deemed it appropriate to condone the delay of one year in filing the Appeal by imposing costs of Rs.6000/- on the Applicant. The only observation which can be said to

have been made in favour of the Applicant by the Lower Appellate Court is to the effect that the Applicant could not be said to be aware of the date of the decree as he has not participated in the proceedings from the stage of leading of evidence, and in fact has not led any evidence in the suit. The Lower Appellate Court therefore was of the view that since the Applicant now wants to prosecute the appeal on merits, an opportunity is required to be given to the Applicant to do so.

3 Since the Lower Appellate Court has deemed it appropriate to exercise discretion in favour of the Applicant i.e. the Respondents herein this Court does not deem it appropriate to interfere with the said discretion, in the revisionary jurisdiction of this Court. The above Civil Revision Application is accordingly dismissed. However it is made clear that any application that would be filed by the Respondents i.e. the Appellants in the Appeal for stay, the Lower Appellate Court would consider the same on its own merits and in accordance with law uninfluenced by the present order. In the facts of the case where the Appeal has been filed belatedly and since there is a decree in favour of the Applicant herein, the hearing of the Appeal is expedited.

[R.M.SAVANT, J]