

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CAS NO.575 OF 2013

IN

SA ST.NO.11011 OF 2013

Shivkumar Nagappa Trankatwar

..vs..

Kaushalyabai Pawar and ors

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

Court's or Judge's order

Shri Raj Wakode, counsel for the applicant/appellant.

Shri J.B. Kasat, counsel for NA No.1/Resp.

CORAM : A.P. BHANGALE, J.

DATE : AUGUST 31, 2015.

Heard.

By this application, the applicant/appellant seeks condonation of delay of 2905 days caused in filing the second appeal.

Learned counsel for the applicant/appellant seeks to condone huge and inordinate delay on the ground that when the order was passed below Exh.12 on 28.3.2013 in Regular Civil Suit No.202 of 2012 by learned Civil Judge Senior Division, Pusad, the applicant/appellant came to realize that he ought to have preferred appeal though the applicant/appellant had filed civil suit i.e. Regular Civil Suit No.202 of

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2012 in which the order passed. Learned counsel for the applicant/appellant, therefore, prays for delay be condoned subject to reasonable costs and the application be allowed.

Learned counsel for non-applicant No.1/respondent strongly opposes huge and inordinate delay of 2905 days caused filing the second appeal. He submits that the State Government has taken further action of forfeiture of land having Gat No.67 admeasuring 1H 21R and that the applicant/appellant is well aware of the judgments and orders which were passed and the final order which has attained the finality for want of challenge.

Having heard the rival submissions made by learned counsel for both the parties, though delay of 2905 days appears huge and inordinate, considering peculiar facts and circumstances of the case that learned Trial Judge in pending Regular Civil Suit No.202 of 2012 expressed helplessness on the ground that the applicant/appellant had not moved this Court in second appeal. For that reason, the

prayer of the plaintiff to restrain the defendants from taking possession of the suit land was rejected.

In view of above, though delay caused is huge and inordinate, I think the applicant/appellant deserves an opportunity to argue his case for preferring the second appeal. Hence, upon payment of costs of Rs.10,000/- (Rupees Ten Thousand) payable to the non-applicants/respondents, the delay is condoned in the larger interest of justice.

The application is disposed of as such.

JUDGE

!! BRW !!

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