

drp

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.6102 OF 2014
IN
SECOND APPEAL STAMP NO.15184 OF 2014

Shantabai Haridas Badure and Others

APPLICANTS

VERSUS

Suvarna Haridas Badure and Others

RESPONDENTS

.....
Mr. Mahesh Bhosale h/f Mr. P. V. Barde, Advocate for applicant
Mr. D. P. Munde h/f Mr. Shoyab Shaikh, Adv. for R-1 to 3
.....

[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 9th DECEMBER, 2016

ORDER :

1. Learned advocate for the respondents states that the sum of Rs.1000/- referred to under order dated 2nd December, 2016 would be deposited with the Bar Library today itself.
2. Heard learned advocates for the parties.
3. Learned advocate for the applicants submits that the applicants are from rural area and were not aware about proceedings to be preferred against order passed in regular civil appeal and in the circumstances, time got whiled away. Thereafter, they approached advocate at Osmanabad, who in

turn referred them to an advocate at Aurangabad. At Aurangabad they were directed to collect requisite documents in order to enable them to file second appeal. It is further contended that the delay is neither intentional nor it is deliberate.

4. Learned advocate appearing for the respondents, however, resists the application submitting that the delay is sought to be casually explained. He further refers to a judgment of the Supreme Court in the case of *“Lanka Venkateswarlu V/s State of A.P.”* reported in *2011 (4) Mh.L.J. 104*, wherein, in the peculiar facts and circumstances of the case, there had been some remarks passed by the Supreme Court and had considered that decision by the High Court had been based purely on personal perceptions and predilections of the judges on the bench. It is under these circumstances, the observations have occurred in paragraph No.26 of the judgment, which are sought to be relied upon by the learned advocate for respondents.

5. However, one will have also to take into account that the contentions about the applicants coming from rural area or for that matter, time had been consumed as the applicants were unaware of the proceedings to be filed has not been disputed

seriously nor any material has been produced cogent enough to dispute veracity of the contentions of the applicants.

6. In the circumstances, it would be expedient to refer to the guidelines as have been laid down in the decision of the Supreme Court in the case of “*Collector, Land Acquisition Anantnag V/s Katiji*” reported in *1987 AIR (SC) 1353*. The decision relied upon on behalf of the respondents, in the circumstances, would not be of any avail to support case of the respondents.

7. As such, the delay stands condoned. Civil application stands allowed in terms of prayer clause “B” and is disposed of, subject to payment of costs of Rs.2000/- to the respondents. Costs be deposited within a period of six weeks from today.

[SUNIL P. DESHMUKH, J.]