

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

60 CIVIL APPLICATION NO. 14217 OF 2015
IN AOST/26288/2015

MANOHAR RAMKISHAN SURYAWANSHI AND ANOTHER
VERSUS
RAMKISHAN VITHOBA SURYAWANSHI AND OTHERS

...
Advocate for Applicants : Narwadkar Mrigesh D.
Advocate for Respondents : Totala Rameshwar F.
...

CORAM : P.R. BORA, J.
DATE : 21-11-2016.

P.C. :

1. In the present matter delay of 522 days has occurred in filing the appeal. The reason stated for occurrence of delay is that, the appellants were not aware of the impugned order till August 2015, though, the said order was passed on 03.01.2014. It is further contended that, immediately after getting knowledge that, the District Court has allowed the appeal and has remanded the matter back for fresh trial, the appellants applied for certified copy and immediately, thereafter, has preferred the present appeal.

2. On perusal of the application it reveals that, the present applicants were duly represented before the District Court through a counsel. Though, it is the contention of the appellants/applicants that they got the knowledge about passing of the judgment by the District Court, after a long lapse of about one year, nothing is produced in support of the said contention by the

appellants/applicants. It cannot be believed that the applicants who were duly represented through a counsel may not be knowing about the decision of the court for such a long period. In absence of any cogent and sufficient reason, the delay of such a huge period cannot be condoned. I am therefore, not inclined to allow the present application.

3. The learned counsel appearing for the appellants/applicants has further submitted that, applicant no.2 is aged about 71 years and the dispute so arisen need to be resolved expeditiously. Having regard to the age of applicant no.2, the request deserves to be considered. In the circumstances, though, I am not inclined to allow the present application which has the consequent result of dismissal of the appeal filed, having regard to the fact that, the suit is of the year 1979 and further that one of the appellant is aged 71 years, the trial court is directed to decide the regular civil suit no. 175 of 1979 as expeditiously as possible and preferably within a period of one year by giving adequate opportunities to the parties to the litigation.

(P.R. BORA)
JUDGE

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