

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

927 CIVIL APPLICATION NO. 14422 OF 2015  
IN SAST/32249/2015

KARUNA NARENDRA DHOLE AND OTHERS  
VERSUS  
NARENDRA DHARMARAJ DHOLE

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Shri. B.K. Patil, Advocate, for applicants.

Shri. K.C. Sant, Advocate, for respondent.

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**CORAM: T.V. NALAWADE, J.**

**DATE : 5th JULY 2016**

**ORDER:**

1) The application is filed for condonation of delay of one year, five months and two days caused in filing second appeal. Both the sides are heard.

2) The applicants were plaintiffs in a suit filed under section 18 of the Hindu Adoption and Maintenance Act, 1956. Maintenance was granted in their favour by the trial Court. But the first appellate Court has set aside the decision of the trial Court by holding that there was decision under section 125 of the Code of Criminal

Procedure and that decision operates as *res judicata* to the civil suit. In view of this single circumstance this Court holds that there is very good arguable case and so the delay deserves to be condoned. In view of the other contentions made in the application and the submissions made this Court holds that sufficient cause is shown. The application is allowed. Delay is condoned.

3) Notice in second appeal. It is waived by the learned counsel Shri. Sant for the respondent. Call record and proceeding. Hamdust allowed in respect of calling record and proceeding to the learned counsel for the appellants. List the matter for final disposal at admission stage on 8<sup>th</sup> August 2016. on following substantial question of law.

*Whether the first appellate Court has committed error in holding that decision of the proceeding under section 125 Code of Criminal Procedure operates as res judicata to the proceeding under section 18 of the Hindu Adoptions and Maintenance Act ?*

Sd/-  
(T.V. NALAWADE, J. )

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