

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

CIVIL APPLICATION NO.1547 OF 2012
IN
SECOND APPEAL NO. 285 OF 1997

Maroti s/o Kishanrao Kulthe .. Applicant
versus
Kamalabai d/o Tatyarao Udanshiv and ors. .. Respondents
-
Mr. N.S. Shah, Advocate h/f Mr. S.V. Natu, Advocate for applicants
Mr. H. K. Munde, Advocate for respondent no.3

CORAM : SUNIL P. DESHMUKH, J.
DATE : 14th October, 2016

ORDER :

1. Learned counsel for the applicant submits that after the second appeal was admitted, learned counsel then appearing for appellant was elevated as judge of the high court and thereafter the matter came to be dismissed against respondents no. 1 and 2 for non service of notice on them.

2. He submits, learned counsel subsequently appearing in place of advocate who was elevated as judge of the high court did not realise that the second appeal had been dismissed against respondents no. 1 and 2 till paperbook had been prepared. Upon realization of dismissal of appeal, civil application for setting aside said order of dismissal along with prayer for condonation of delay had been filed. It is thus, delay is sought to be explained.

3. It is further contended that respondents no. 1 and 2 now stand served. Respondent no. 3 has also been served and appearance is caused on his behalf. Respondent no. 3 is stated to be husband of respondent no. 2, whereas respondent no. 1 is stated to have been served through paper publication.

4. Learned counsel Mr. Munde appearing on behalf of respondent no. 3 states that the reasons as are given for condonation of delay are not cogent and sufficient.

5. He further states that the that he has instructions to submit that the property has been dealt with by respondent no. 2 long back.

6. In any case, veracity of the circumstances referred to has not been suspected. The reasons given appear to be plausible ones.

7. Civil application as such stands granted in terms of prayer clauses (A) and (B).

8. Civil application stands disposed of.

SUNIL P. DESHMUKH,
JUDGE

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