

IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 792 OF 2016

IN

STAMP NUMBER MAIN NO. 3052 OF 2016

MR. RAMRAI SHIRODKAR (DEC) THR.
LRS.,

... Applicant

Versus

CONFRARIAS OF OUR LADY OF ROSARY
REP. BY MANAGING COMMITTEE AND 8
ORS.,

... Respondents

Mr. Ressano Hector Noronha, Advocate for the applicants.
Mr. Ryan Da Piedade Menezes, Advocate for the respondent No.1.

Coram:- F. M. REIS, J.

Date:- 14th October, 2016

P.C.:

Heard Mr. Noronha, learned Counsel appearing for the applicants and Mr. Ryan Menezes, learned Counsel appearing for the respondent No.1.

2. This is an application for condonation of delay of 3571 days in filing the second appeal.

3. The suit filed by the respondents/plaintiffs came to be decreed in the year 1998 against the husband of the appellant/defendant. That decree was challenged before the learned Lower Appellate Court wherein the appellant and her children were brought on record as

LRs. of the deceased appellant therein. The appeal was dismissed by the learned Lower Appellate Court by Judgment and Decree dated 13/9/2006. The LRs. of the original defendant chose not to file any appeal. Execution proceedings were initiated in the year 2012 by the respondents herein and the appellant was duly notified of the Judgment and Decree in the year 2012. The second appeal was filed only in the year 2016 with the present application for condonation of delay. The gross delay of nearly 10 years has not been satisfactorily explained. There is gross inaction by the applicant in challenging the judgment of the Lower Appellate Court.

4. It is the contention of the applicant that the applicant is sick and unable to move out from the house. To that effect, a Medical Certificate has been obtained. But, however, it is an admitted position that the decree has been passed against the appellant, as well as her children, who chose not to challenge the decree passed by the learned Trial Judge. It is also brought to my notice that in the meanwhile, the decree has also been executed.

5. In such circumstances, on perusal of the averments in the application, I find that there is no sufficient cause shown by the appellant for condonation of delay of such inordinate and gross delay. The records reveal that the applicant was represented by a Counsel before the learned Lower Appellate Court. Though it is contended by the learned Counsel appearing for the applicant that the applicant was

not represented by any Counsel, nevertheless, the Judgment and Decree passed by the learned Lower Appellate Court clearly discloses that an Advocate was appearing on behalf of the applicant, as well as the LRs. of the applicant. There is no satisfactory explanation for such inordinate delay and the application also lacks necessary particulars.

6. In such circumstances, I find that the delay in filing the second appeal has not been satisfactorily explained. Hence, the application is dismissed and stands disposed of accordingly.

F. M. REIS, J.

ssm.