

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.184 OF 2015
IN
FIRST APPEAL NO.778 OF 1984

Arvind Balaji Walvekar	... Applicant
<i>In the matter between</i>	
Arvind Balaji Walvekar and Another	... Appellants
vs.	
The State of Maharashtra and Others	... Respondents

Ms. Gauri Godse, for the Applicant.
Ms. Anamika Malhotra, AGP for the State.

CORAM: MRS.MRIDULA BHATKAR, J.

DATE: 12th FEBRUARY, 2016

P.C.:

. This application is moved for condonation of delay of nearly six years in filing the Review Petition. By an order dated 4th February, 2009 First Appeal No. 778 of 1984 was dismissed qua Appellant Nos. 1A to 1C, 2A to 2C, 3A to 3D and 6A to 6E. The Appeal was dismissed on the ground that the Appeal was not filed on behalf of all the above Appellants within stipulated time and therefore under Order 41 Rule 17 of the Civil Procedure Code it was dismissed.

2. The learned counsel for the Applicant submits that the Appeal is still alive. She had filed her vakalatnama on 31st October, 2014 and thereafter she took search of the papers in First Appeal No. 778 of 1984 and found that vakalatnama was filed for all the legal heirs of the Appellants on various dates i.e. 19th October, 1993, 13th March, 2002 and 10th January, 2006. She pointed out that in her Review Petition in para 7 these facts are mentioned and therefore there is delay in filing the Petition.

3. The learned AGP for the State who is the main contesting party is present. It is informed by the learned counsel for the Applicant that against Respondent Nos. 2 to 15 also the Appellants have sought relief in the suit, however, though they were served in the First Appeal, they did not appear.

4. In view of the above submission of the learned counsel for the Applicant and after recording the opposition of the learned AGP for the State, I am inclined to condone the delay as sufficient causes are made out.

5. The Civil Application is allowed. The delay is hereby condoned.

6. Accordingly, the application stands disposed of.

(MRS.MRIDULA BHATKAR, J.)