

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.782 OF 2014
IN
SECOND APPEAL (STAMP) NO.10450 OF 2014**

Ashok Jayendra Magdum .. Applicant
Vs.
Dhulappa Surendra Magdum & Anr. .. Respondents

Mr.Saurabh Oka for Applicant.
Mr.Anant Vadgaonkar for Respondent nos.1 & 2.

CORAM : R.D. DHANUKA, J.
DATE : 23rd September 2016

P.C.

. By this civil application, the applicant seeks condonation of delay of 3 years and 150 days in filing second appeal.

2. I have heard the learned counsel for the parties.

3. The applicant being an uneducated person, was unaware of any further remedies of law he could avail. There is communication gap between the applicant and his advocate. It is stated in the civil application that he also came to know that the old certified copy sent to the advocate was also disposed of by him. The applicant was thus required to file fresh application for certified copies of all the necessary documents in which considerable time was lost.

4. Learned counsel appearing for the respondents opposes the delay application on the ground that the delay is not properly explained and would submit that the delay is substantial.

5. Learned counsel appearing for the applicant in rejoinder submits that if the delay is not condoned, the applicant will suffer grave loss. The applicant may be imposed some costs by this Court.

6. Though the reasons are not fully satisfied for the delay of 3 years and 150 days in filing the second appeal, in view of the fact that the applicant is an uneducated person and there is communication gap between the applicant and his advocate. Interest of justice would be met with if the delay is condoned on payment of costs of Rs.10,000/- to the respondents within three weeks from today.

7. I therefore pass the following order :-

(a) Civil application is made absolute in terms of prayer clause (a) on the condition that the applicant pays costs of Rs.10,000/- to the respondents within three weeks from today as and by way of condition precedent;

(b) After payment of costs of Rs.10,000/-, the applicant is permitted to apply for circulation of the second appeal after removing all office objections.

R.D. DHANUKA, J.