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IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.984 OF 2014  
IN  
SECOND APPEAL NO.53 OF 2006

|                                      |                |
|--------------------------------------|----------------|
| Dada B. Dabale                       | ...Applicant   |
| V/s.                                 |                |
| Janardhan @ Bajirao B. Dadabe & Ors. | ...Respondents |

Mr.Vinod Sangvikar i/ Mr.Umesh Mankapure for the Applicant.

Mr.Dilip Bodake for the Respondent No.1.

**CORAM : R.D. DHANUKA, J.**  
**DATE : 16TH SEPTEMBER, 2016.**

**P.C. :-**

1. By this civil application, the applicant seeks condonation of delay of six years and 235 days in filing the civil application and seeks restoration of the second appeal, which was dismissed for non-compliance of the conditional order dated 12<sup>th</sup> July, 2007 passed by this Court. The applicant (original appellant) was directed to file the paper book within eight months from the date of the order dated 12<sup>th</sup> July, 2007.

2. I have heard the learned counsel for the applicant and for the respondent no.1. Learned counsel appearing for the respondent no.1 states that after dismissal of the appeal, the respondent no.1

has already created third party rights and has sold the suit property. He submits that the delay is not satisfactorily explained.

3. I have perused the civil application and also the affidavit in reply filed by the respondent no.1. Though the delay is not fully explained, since the appeal is dismissed for non filing of the paper book, it would be in the interest of justice that the delay is condoned on payment of cost. Learned counsel appearing for the applicant states that his client would donate a sum of Rs.5000/- to the Legal Service Authority within two weeks from today and would produce a receipt of donation to the learned Registrar (Judicial) of this Court. The statement is accepted.

4. For the reasons recorded in the civil application, the civil application is made absolute in terms of prayer clauses (b) and (c). Second Appeal No.53 of 2006 is restored to file.

5. Insofar as creation of third party rights by the respondent no.1 in view of the dismissal of the second appeal is concerned, no further order can be passed by this Court in this civil application. If any fresh civil application is filed by the applicant, the same can be considered on its own merits.

6. The applicant is directed to file paper book as directed within four weeks from today, failing which the second appeal to stand dismissed without further reference to the Court. A copy of the

paper book shall be served upon the learned advocate representing the respondent no.1 within one week from the date of filing such paper book.

**(R.D. DHANUKA, J.)**