

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

**CIVIL APPLICATION NO.304 OF 2016
in
SECOND APPEAL NO.467 OF 1993**

Rukminibai Dattatraya Lad & Anr. .. Applicants

Vs.

Saraswati Dinkar Padekar (since deceased)
through her legal heirs

a) Prakash Dinkar Padekar & Ors. .. Respondents

Mr.Rahul P. Walvekar for the Applicants.

Mr.Mandar Limaye for the Respondent nos.1(a) & 1(b).

CORAM : R.D. DHANUKA, J.

DATE : 23rd November 2016

P.C.

. By this civil application, the applicants seek condonation of delay of 11 years and 29 days in filing the civil application and seek restoration of the second appeal which was dismissed in view of non-compliance of the order dated 27th August 2004 passed by this Court by not paying Bhatta charges and not carrying out the amendment within one week from the date of the said order.

2. With the assistance of the learned counsel for the applicants, I have perused the averments made in the civil application. Mr.Limaye, learned counsel appearing for the respondent nos.1(a) & 1(b) has vehemently opposed this civil application. Though in my view, the delay is not fully and satisfactorily explained, in the interest of justice and in view of the fact that the delay is partly explained, the delay is condoned on payment of exemplary cost.

3. Civil application is made absolute in terms of prayer clauses (b) and (c) on the condition that the applicants pay cost of Rs.25,000/- to the Kirtikar Law Library within four weeks from today. A copy of the receipt showing payment of cost paid to the Kirtikar Law Library shall be shown to the Sheristedar of this Court within one week from the date of payment of the cost as directed. The office is directed to place the second appeal on board for 'hearing and final disposal' according to the number of year after cost as directed is paid.

R.D. DHANUKA, J.