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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CIVIL APPLICATION NO. 129 OF 2017
WITH
CIVIL APPLICATION NO.130 OF 2017
IN
SECOND APPEAL (ST) NO.372 OF 2017**

1. Jugalkishor Shivprasad Bhakkad,
Age: 60 years, Occ: Business
& Agri., R/o. Sambhaji Nagar,
Jalna, Tq. Jalna, Dist. Jalna.
2. Ashokkumar Champalal Luniya,
Through G.P.A. holder
Age: 55 years, Occ: Business
& Agri., R/o. Sambhaji Nagar,
Jalna, Tq. Jalna, Dist. Jalna. ..APPLICANTS

VERSUS

1. Bhanudas s/o Sitaram Ubale,
Age: Major, Occ: Agri.,
R/o. Pritisudha Nagar,
Jalna, Tq. & Dist. Jalna.
2. Vishnu s/o Abaji Giram,
Age: Major, Occ: Agri.,
R/o,. Shakuntala Nagar,
Mantha Road, Jalna,
Tq. & Dist. Jalna.
3. Raosaheb s/o Baburao Mulay,
Age: Major, Occ: Agri.,
R/o. Rammurti, Tq. & Dist. Jalna.
4. Gorakhnath s/o Balabhau Muley,
Age: Major, Occ: Agri.,
R/o. Rammurti,
Tq. & Dist. Jalna. ..RESPONDENTS

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Mr R.F. Totla, Advocate h/f Ms. S.R. Totla,
Advocate for applicants;
Mr J.K. Bhalmode, Advocate for respondent Nos. 1
and 2;
Mr D.P. Palodkar, Advocate for respondent Nos. 3
and 4

CORAM : N.W. SAMBRE, J.

DATE : 14th JULY, 2017

ORAL ORDER :

Second appeal is accompanied with application for condonation of delay praying that delay of 1414 days be condoned. In the application, cause cited is, lawyer has advised the applicants not to file second appeal, as the judgment could be covered within purview of proceedings before the revenue authorities.

2. Reliance is placed on the judgment of the Apex Court in the matter of **N. Balkrishnan vs M.Krishnamurthy**, reported in **A.I.R 1998 SC 3222**, particularly paragraphs-8,9 and 10 thereof.

3. What is required to be noted is, this Court is not concern with the length of delay that

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is caused, but the reasons and bonafides of the applicant. The applicants have tried to blame their lawyer for incorrect advise. They have neither issued notice nor filed affidavit of such lawyer on record to justify the cause in support of condonation of delay sought to be canvassed through application.

4. This Court, now-a-days, routinely noticing such conduct of the parties, who start blaming their lawyers without any basis or in absence of substantiating any material to that effect.

5. Apart from above, it is required to be noted that the lawyer, who represented present applicants before the trial Court also represented them in appeal, wherein the applicants preferred appeal being aggrieved by the judgment of trial Court. It is really hard to digest that lawyer, who has represented them in both the Courts below will advise them not to file second appeal.

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6. In the aforesaid background, having noticed that cause cited in support of condonation of delay is not acceptable as not moved with any bonafide intention. The application fails, stands rejected.

7. Consequently, Second Appeal and civil application for stay also stand dismissed.

(N.W. SAMBRE, J.)

Tupe