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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.893 OF 2017
IN
SECOND APPEAL STAMP NO.1871 OF 2017

Nanasaheb Bhausaheb Thite and Another

APPLICANTS

VERSUS

Dattatraya Baba Ladhane

RESPONDENT

.....

Mr. Niteen V. Gaware, Advocate for the applicants

Mr. Mahesh S. Deshmukh, Advocate for the respondent

.....

[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 17th MARCH, 2017

ORDER :

1. Heard learned advocates for the parties.
2. Learned advocate for the applicants submits that due to drought conditions prevailing for longer period, applicants, along with their source of livelihood, the livestock, were struggling for existence. He submits that decision dated 6th January, 2016 of District Judge – 3, Ahmednagar in Civil Miscellaneous Application no.222 of 2012, in the circumstances, could not be known to them for quite a while and under the circumstances, while notice of execution had been issued, the applicants became aware and present proceedings were advised and were necessitated. As

such, delay of 282 days is caused in the circumstances, and the same is neither intentional nor any deliberation has taken place causing delay. He further submits that no benefit has inured to the applicants by causing delay. He, therefore, seeks indulgence to condone the delay.

3. Learned advocate Mr. Deshmukh, appearing for the respondent, however, submits that the matter is not as simple as is sought to be made out before this court. As a matter of fact, conduct of the applicants has been reprehensible and that has emerged before the appellate court. He submits that the applicants are substantial land holders and the reason being put forth of their economic condition being precarious is only a subterfuge.

4. Having heard learned advocates as aforesaid, while one keeps at the back of the mind guidelines as would be appearing in the Supreme Court decision in the case of “*Collector, Land Acquisition, Anantnag Vs. Ms. Katiji and ors.* reported in *A.I.R. 1987 S.C. 1353* it appears that the contest on merits would sub-serve the cause of justice rather than obfuscating the matter on the ground of delay. Besides, it is being submitted that in this part of the State for last quite a few years there was drought situation

which had affected the people to quite a substantial extent.

5. In the circumstances, it would be expedient to grant application, subject, of course, to payment of costs of Rs.5000/- to the respondent.

6. As such, civil application for condonation of delay is granted in terms of prayer clause "A" subject to payment of costs of Rs.5000/- to be deposited in this court within a period of four weeks from today. Civil application stands disposed of. In case of failure to deposit the amount of costs, within four weeks, this order shall be deemed to have been recalled and the civil application shall be deemed to have been rejected without further reference to the court.

[SUNIL P. DESHMUKH, J.]

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Mr. Mahesh S. Deshmukh, Advocate for the respondent

.....

[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 17th MARCH, 2017

ORDER :

1. Put up the matter for admission on 20th April, 2017.
2. Interim relief to continue till the next date.

[SUNIL P. DESHMUKH, J.]

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