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

**CIVIL APPLICATION NO.4620 OF 2016
IN
CIVIL APPLICATION NO.4165 OF 2008
IN
SECOND APPEAL (ST.) NO.18375 OF 2007
WITH
CIVIL APPLICATION NO.4621 OF 2016
IN
CIVIL APPLICATION (ST.) NO.8205 OF 2016
IN
SECOND APPEAL (ST.) NO.18375 OF 2007**

Balu s/o Mahadu Bale,
Age: 45 years, Occu: Agri.,
R/o. Rampurwadi, Tq. Kannad,
Dist. Aurangabad

..APPLICANT
(Orig.Deft.)

VERSUS

1. Saluba s/o Chingaji Bale,
since deceased, thr. L.Rs.
- 1-A. Ramesh s/o Saluba Bale,
Age: 48 years, Occu: Teacher,
R/o. Rampurwadi, Tq. Kannad,
Dist. Aurangabad
- 1-B. Bhima s/o Saluba Bale,
Age: 46 years, Occu: Agri.,
R/o. Rampurwadi, Tq. Kannad,
Dist. Aurangabad
- 1-C. Arjun s/o Saluba Bale,
Age: 35 years, Occu: Agri.,
R/o. Rampurwadi, Tq. Kannad,
Dist. Aurangabad
- 1-D. Smt. Kesarbai w/o Saluba Bale,
Age: 65 years, Occu: Household,
R/o. Rampurwadi, Tq. Kannad,
Dist. Aurangabad
- 1-E. Sau. Mangalbai w/o Gautam Kamble,
Age: 32 years, Occu: Household,
R/o. Galli No.09, Nayana Nagar,
Pundalik Nagar Road, Aurangabad

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1-F. Sau Sunita w/o Rahul Gajhance,
Age: 30 years, Occu: Household,
R/o. Lasur Station, Tq. Paithan,
Dist. Aurangabad

..RESPONDENTS

Mr V. B. Garud, Advocate for applicant;
Mr N. B. Kamble, Advocate for respondents

CORAM : NITIN W. SAMBRE, J.**DATE : 20th September, 2017****ORAL ORDER:**

The applicant-defendant preferred Second Appeal (St.) No.18375 of 2007, for which delay of more than four years was caused.

2. This Court, while passing order dated 20th December, 2011 though noticed that the attempt of the applicant of filing second appeal at belated stage is with an intention to prolong the proceedings of the second appeal so as to get advantage in the execution proceedings, still condoned the delay, subject to payment of costs of Rs.10,000/- to be deposited in this Court by 10th January, 2012.

3. In paragraph 6 of the aforesaid order, this Court observed that in case the amount of costs as ordered is not deposited, the appeal shall stand dismissed as the prayer for condonation of delay would be treated as rejected.

4. In view thereof, the prayer for condonation of delay already stood rejected and the appeal accordingly stood dismissed. In this dismissed Second Appeal, the present applicant moved an application after lapse of

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period of about more than four years, on the ground that ignorance of knowledge about the order and having migrated for earning livelihood.

5. Heard Mr Garud, learned Counsel appearing on behalf of the applicant for some time, it is noticed from the conduct of the applicant that his entire approach from the date of filing of the second appeal is very casual. In the order dated 20th December, 2011, while condoning delay of four years, this Court had taken note of the conduct of the applicant of intentionally protracting the proceedings in the second appeal. Though this Court, in the interest of justice had shown indulgence by ordering condonation of delay, applicant failed to comply with the said order for no reasonable cause.

6. In the present application if the cause cited for grant of extension of time to deposit the amount of costs is assessed, it is noticed that for bringing legal representatives of the respondent on record there was delay, which speaks of complete casual approach on the part of the applicant. There is no convincing reason which prompts this Court to grant extension of four years for depositing the amount of costs and for ordering restoration of the appeal, which is already dismissed way back in 2012.

7. In view of above, Civil Application stands rejected. As such, pending Civil Application does not survive and stands disposed of accordingly.

(NITIN W. SAMBRE, J.)

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