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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.12375 OF 2015
IN
SECOND APPEAL STAMP NO.14684 OF 2015

Sayed Nazir Sayed Dadesaheb @ Dadusaheb & Ors. APPLICANTS

VERSUS

Sayed Ibrahim Sayed Raufsab and Others

RESPONDENTS

.....

Mr. Yunus Basheer Pathan, Advocate for the applicants

Mr. J. R. Patil, Advocate for respondents No.1 to 3

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[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 17th MARCH, 2017

ORDER :

1. Heard learned advocates for the parties.
2. The application has been moved seeking condonation of delay of about 2884 days in lodging second appeal against judgment and order delivered by appellate court on 17th March, 2007 confirming decision of the trial court rendered in 2004 dismissing present applicant - plaintiff's claim for title and recovery of possession.
3. Learned advocate for the applicant strenuously urges the court to indulge into the request to condone the delay, for, the

applicant is in poor financial condition and had been unable to bear expenditure of litigation coupled with that he underwent some criminal trial from 2006 to 2008 and appeal therefrom is pending before High Court. It is further being submitted that due to illiteracy, the applicant was unable to obtain required documents in respect of decision of the appellate court in order to approach this court.

4. Learned advocate for the respondents refers to that even certified copies of the regular civil appeal and requisite documents were delivered at the end of the applicant around November, 2014 and present application has been filed on 4th December, 2015. He submits that there is no explanation coming forth for the period after November, 2014. He submits that in any case, it cannot be believed that applicant had no knowledge of the decision in 2007, since him being involved in criminal case. As a matter of fact, he ought to have been more alert in respect of the matters on civil side, because same would have benefited him in criminal proceedings. He thus submits that the plea being taken of engaging in criminal proceedings is superfluous and untenable.

5. Having heard learned advocates as aforesaid, it appears

that the application does not inspire confidence about veracity of the contents, since a decision which had been rendered in 2007 and criminal prosecution against the applicant had been over in 2008, there is no material placed on record as to what efforts were being made with regard to decision in regular civil appeal, which went against the plaintiff. Apart from the absence of material, the application does not contain anything explaining as to what has been done after obtaining certified copies. The matter, it appears, had been prosecuted negligently and haphazardly and casually.

6. In the circumstances, facts and circumstances as contended would be short of constituting sufficient cause as required under section 5 of the Limitation Act. Thus, the civil application is not being entertained and is dismissed.

[SUNIL P. DESHMUKH, J.]