

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

934 CIVIL APPLICATION NO. 11731 OF 2016
IN RAST/19080/2016

POSHETTI GIRMAJI MUTTEPOD
VERSUS
GIRMAJI NARSAPPA MUTTEPOD AND OTHERS

...
Advocate for Applicant : B.R. Kedar h/f. Koralkar Arun H.
Advocate for Respondents 2 to 4 : P.R. Katneshwarkar
...

CORAM : T.V. NALAWADE, J.
DATED : 10th January, 2017.

ORDER :

1. The application is filed for condonation of delay of 74 days caused in filing revision application. Heard the learned counsel for applicant.

2. The applicant wants to file review application in respect of the order made by this Court in Second Appeal No. 163/2015. The Second Appeal is dismissed by this Court by holding that no substantial question of law is involved in the matter.

3. The present application is filed for condonation of delay and for that, not only sufficient cause is required to be shown, but also the applicant is required to show that he has

some case in main proceeding, review application. The learned counsel for applicant submitted that the relief of declaration of ownership was claimed. But, there is no discussion in respect of that claim. The attention of the counsel was drawn to the plaint and claim clause. No such claim was made. Only because the Court below had framed one issue regarding ownership in injunction suit, it cannot be said that the declaration of ownership was claimed. Framing of such issue is not necessary. There is no need to give detail reasons for that.

4. The learned counsel for applicant then submitted that the Court Commissioner, who was appointed at the instance of present applicant was not examined and that was the fault of counsel, who represented the applicant in the Trial Court. This point is also discussed by this Court and there is no need to discuss this point again.

5. The learned counsel for applicant submitted that defendant No. 1 had purchased some eastern portion and subsequently also western portion is purchased and this fact is not considered. This Court has considered the oral evidence and evidence of Court Commissioner which is self explanatory. There are concurrent findings on facts of the Trial Court and the First

Appellate Court. There is nothing for review. This Court holds that as there is nothing in the main proceeding, the delay does not deserves to be condoned. The application stands rejected.

[T.V. NALAWADE, J.]

ssc/