

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

CIVIL APPLICAION NO. 14915 OF 2016
IN
SECOND APPEAL [STAMP] NO. 21023 OF 2016

Abdul Shaikh Lal, died,
through legal representatives :

Badrunia w/o Abdul Karim and ors. .. Applicants

VS

Abdul Rahim Shaikh Lal .. Respondent

Mr. Shrirang S. Dande, Advocate for applicants
Mr. A. S. Deshpande, Advocate for respondent

CORAM : SUNIL P. DESHMUKH, J.
DATE : 10th March, 2017

ORDER :

1. Heard learned counsel for the parties.
2. There is delay of 350 days in filing second appeal.
3. It is being referred to by the applicants that earlier on, their father had been looking after the litigation and after his death, the applicants were brought on record as his legal heirs but they had poor knowledge about litigation and its' further prosecution. In the circumstances it was not realized that decision had been rendered and further move will have to be

made. Upon realization of the same, it was decided to file second appeal. It transpired that there is no alternate remedy but to prosecute second appeal. In the circumstances, delay has occurred.

4. Learned counsel for the respondent submits that the reasons as are coming forth may not be sufficient to condone the delay. However, he is not in a position to challenge the veracity of the contents of the application.

5. In the circumstances, following the guidelines in the case of *Collector, Land Acquisition, Anantnag vs. Mst. Katiji*, reported in *AIR 1987 SC 1353*, delay deserves to be condoned, subject, of course to costs.

6. As such, civil application stands granted in terms of prayer clause (A) subject to payment of costs of ₹ 5,000/-. Costs be deposited in this court within a period of three weeks from today. The respondent is at liberty to withdraw the same.

SUNIL P. DESHMUKH,
JUDGE

pnd