

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

961 CIVIL APPLICATION NO. 2946 OF 2017
IN RAST/33916/2016 WITH CA/2947/2017 IN
RAST/33916/2016

BAPURAO RAMKRUSHNA KANE
VERSUS
LAXMIBAI RAMKRUSHNA KANE AND OTHERS

Shri. S.B. Bhapkar, Advocate, for applicant.

Coram: T.V. NALAWADE, J.

Date: 17 March 2017

ORDER:

1) The application is filed for condonation of delay of 47 days caused in filing review application. The applicant wants to file review application against the judgment and decree of Second Appeal No.159 of 2015 of this Court.

2) It appears that the suit for partition was filed by mother and sister of the applicant. The suit was decreed by the trial Court but it was modified by the first appellate Court. This Court has set aside the decision of

the first appellate Court and the decision given by the trial Court is restored.

3) It is the case of the applicant that right from the beginning he is physically handicapped and the extent of the disability is 96%. It is the case of the applicant that his father had given him two separate properties in the year 1980 as he is handicapped person and these properties were self acquired properties of his father. It is the contention of the applicant that due to such act of the father, name of the applicant was entered in the revenue record in the year 1980 and it was continued. Further the mutation was never challenged.

4) Learned counsel for the applicant submitted that the aforesaid aspects are not considered by this Court. Even if it is presumed that these aspects are not considered, those aspects cannot make any difference in the decision. If the property was the self-acquired property, the father could have given the property only by way of registered document of sale or gift. Mere entry in the revenue record cannot assign the title in such a case.

Case of adverse possession is also not available to a person in whose name entry is made as the person is Hindu and the presumption goes against him that he is holding the property not only for himself but for his mother and sisters. Thus, nothing can be achieved by condoning the delay and it is mere harassment to the respondents who are ladies if notice is issued in the matter against them. In the result, the application stands rejected.

Sd/-
(T.V. NALAWADE, J.)

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