

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.1569 OF 2014
IN
SECOND APPEAL (ST) NO.3605 OF 2014**

Shankar Rajaram Khairnar & Ors. ... Applicants

Versus

Jagannath Rajaram Khairnar & Ors. ... Respondents

Mr. Arun Palekar for the Applicants.
None for the Respondents.

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CORAM : S.C.GUPTE, J.

DATE : 17 FEBRUARY 2017

P.C. :

1. This Civil Application seeks condonation of a delay of 211 days in filing the present Second Appeal. The delay is explained in paragraph 3 of the Civil Application. It is submitted by the Appellants that the impugned judgment and order challenged in the present Second Appeal partly decreed the Appellants Suit. Whereas perpetual injunction was ordered by the First Appellate Court, the decree of declaration sought by the Appellants was declined by the First Appellate Court, thus confirming the order of the Trial Court in that behalf. It is submitted that the Appellants, being illiterate persons, were not mindful of the fact that this part rejection

of their appeal called for a challenge in Second Appeal.

2. Though there is a reply filed by Respondent Nos.1 to 3 to the present Civil Application, none appears for the Respondents to canvas their defence to the present Civil Application.

3. In the premises, the explanation submitted by the Appellants/Applicants is accepted and the Civil application is allowed in terms of the prayer Clause (A). Office shall now number the Second Appeal. The Appeal shall appear for admission on 27 March 2017. A copy of this order shall be communicated by the Appellant's Advocate to the Advocate of Respondent Nos.1 to 3. The Civil Application is disposed of accordingly.

(S.C.GUPTE, J.)