

Rane (sr.82)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application in SA NO. 1062 OF 2016

IN

Second Appeal (ST) NO. 4937 OF 2016

Smt. Anusuya Sadashiv Bhogade ...Applicant
Versus
Bajirao Genbhau Bhogade And Ors.
...Respondent(s)

Mr. D.V. Sutar, Advocate for the Applicant/Appellant.

Ms. B.V. Gawade i/by. Mr. Vikas Kolekar, Advocate for Respondent no.1.

CORAM: N.M. Jamdar, J.

DATED: 21st April, 2017.

PC:-

. By this Civil Application, the Applicant has sought to condone the delay of 12 years and 124 days in filing the Second Appeal.

2 The Applicant has challenged the judgment and order passed by the District Judge, Pune dated 7 July, 2003. By this order, the Learned District Judge set aside the order passed dated 30 December, 2000 passed by the Learned Civil Judge. The Learned Civil Judge had declared the plaintiff as the owner of the suit property. This declaration has been set aside.

3 It is informed that, as on today in another suit, the possession of the Applicant over the suit property is protected by way of order of injunction. In the present suit, there is no decree against the Applicant to handover the suit premises. In this context, the reason given for the delay of 12 years, which is on the face is inordinate will have to be examined. The Application gives no particulars except making general statements regarding illness. Even assuming the illness and the age is accepted, it cannot justify the delay of more than 12 years. When the suit was filed by the Applicant in the year 1993, the Applicant is described a 36 year old. In the Appeal before the District Court, she is described as 50 year old. From the title of these two proceedings, it is inconceivable that the Applicant is 90 year old as sought to be argued by the Learned Counsel for the Applicant. Be that as it may, for lack of any particulars, no reason is made out for condonation of delay of 12 years.

4 The Civil Application is accordingly rejected.

(N.M. Jamdar,J.)