

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 1940 OF 2016
IN
FIRST APPEAL (ST) No. 6753 of 2016

Guruling B. Sargar and ors.

.. Applicants

vs.

Madhu R. Sargar and ors.

.. Respondents

Ms Bhagyashree Bhosale h/f. Mr. Nitin Deshpande for the
Applicants-Appellants.

Mr. Chintan Y. Shah for Respondent No.1.

CORAM : M. S. SONAK, J.

DATE : 9 JANUARY 2017.

P.C. :-

1] Heard learned counsel for the parties.

2] The applicants seek condonation of delay in institution of this appeal. The delay is of around three years.

2] The reasons set out for institution of this appeal beyond the prescribed period of limitation is that the appellants had initially instituted an appeal before the District Judge, Sangli against the impugned order. According to the applicants, this appeal was instituted within the prescribed period of limitation. However, learned counsel for the respondent No.1 submits that even this appeal was instituted almost 120 days beyond the prescribed period of limitation.

3] Be that as it may, the appeal was pending before the District Judge at Sangli for almost three years. The appeal was not dismissed

by the District Judge Sangli on the ground that it was instituted beyond the prescribed period of limitation. Rather, the District Judge, by reference to the decision of this court in ***Nola Janathan Ranbhise v. Union of India and ors. - 2014(3) Bom. C.R. 641*** held that the appeal cannot be said to be maintainable before the District Court and the proper forum would be this court. Such order was made on 6 February 2016 and soon thereafter, i.e., on 4 March 2016, the present appeal alongwith application for condonation of delay came to be filed.

4] The application is supported by an affidavit/averment. From the conspectus of the fact, it is clear that the applicants were not negligent, but rather were pursuing the matter before the District Court. No sooner the District Court made its order on 6 February 2016, the present appeal has been instituted. This is not a case of any *malafides*. The quantum of delay, is really not important. What is important is the quality of explanation. In this case, sufficient cause has been show and therefore, a case has been made out for condonation of delay. Accordingly, the delay in institution of this appeal is condoned. The civil application is disposed of.

(M. S. SONAK, J.)