

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 203 OF 2017

IN

SECOND APPEAL (ST) NO. 18764 OF 2016

Ram Mahadu Mahadik ... Applicant / Appellant

Versus

Sadanand Dhondur Mane ... Respondent

Mr. Santraram Tarale for the Applicant / Appellant.

Mr. Sagar Talekar a/w. Mr. K.G. Rikame for the Respondent.

CORAM: S.J. KATHAWALLA, J.

DATED : 26TH SEPTEMBER, 2017

P.C.:

1. The above Civil Application is taken out by the Applicant / Appellant seeking condonation of delay of 262 days in preferring the Second Appeal against the impugned Judgment and Decree dated 22nd July, 2015 passed in Regular Civil Appeal No. 42 of 2009 by the District Judge, Mangaon.
2. The Applicant / Appellant has submitted that he came to know about the passing of the impugned Judgment and Decree dated 22nd July, 2015 only on 3rd November, 2015. Though the certified copy of the same was applied for on 4th November, 2015, he being a Labourer, due to his poor financial condition, failed to approach the Advocate in time and could not file an Appeal before this Court within time despite having obtained certified copy of the impugned Judgment and Decree dated 22nd July, 2015 in time. He has submitted that only after he could arrange the

necessary funds, he approached this Court with the Second Appeal. He has submitted that substantial questions of law arise in the above Second Appeal and if the delay in filing the above Second Appeal is not condoned, irreparable injury will be caused to him.

2. The Respondent has not filed any reply. However, the Respondent has submitted that no case for condonation of delay has been made out in the above Civil Application.

3. I am not in agreement with the submission made on behalf of the Respondent. The Appellant has submitted that he is a Labourer and was facing financial problems. Though he had applied for a certified copy immediately upon being informed about the impugned Judgment and Decree dated 22nd July, 2015, he could not approach this Court until he gathered funds to file the Second Appeal. As stated above, the Respondent has not controverted the submissions made by the Applicant / Appellant in the above Civil Application, which was served on the Respondent approximately a year back. I am therefore satisfied that the Applicant / Appellant has shown sufficient cause for condonation of delay of 262 days in filing the above Second Appeal. In view thereof, the delay in filing the Second Appeal of 262 days is condoned.

4. Place the above Second Appeal on 9th October, 2017, first on board.

5. The above Civil Application is accordingly disposed off.

(S.J.KATHAWALLA, J.)