

JPP

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

CIVIL APPLICATION NO. 903 OF 2016

in

SECOND APPEAL NO. 54 OF 2006

Sarjerao Shankar Lohar and Ors. ... Applicants/Appellants.

V/s.

Ramchandra Mura Khot. ... Respondent.

Mr. R.A. Naik i/b. Umesh Mankapure for the Applicants and Appellants.

Mr. Abhishek Deshmukh i/b. Sagar Kasar for the Respondent.

Coram : N.M. Jamdar, J.

Date : 31 March 2017.

P.C. :-

Civil Application is taken out for condoning delay of 6 years and 347 days and to bring the heirs of Appellant No.5 on record.

2. The Second Appeal was admitted on 29 June 2006. The Applicant No.5 has expired on 17 July 2008.

3. Heard the learned Counsel for the parties. Affidavit in reply has been filed by the Respondents. In the Application it is stated that the Applicants due to their financial and educational backwardness did not know the proper procedure and when they had visited, the office of the present Advocate for enquiring the status, they came to know the formality of production of death certificate and other details are required. In the reply except for a bare denials nothing has been shown controverting the assertion regarding the financial and educational backwardness of the Appellants. The entire Appeal has not been dismissed and it has been dismissed only as against Appellant No.5.

4. Considering these facts,, I am of the opinion that the delay in filing the Appeal can be condoned and the legal heirs can be brought on record, subject to payment of costs. It is also stated by the learned Counsel for the Applicant that whenever the Appeal will be called out for final hearing, an adjournment will not be sought unless absolutely necessary. This statement is accepted.

5. In view of this undertaking and subject to payment of costs of Rs.10,000/- within period of three weeks from today, to be deposited in this Court, which the Respondent will be permitted to withdraw, the Civil Application is allowed in terms of prayer clause

(b). The copy of this order which contains the undertaking of the Applicant not to seek needless adjournments, will be placed in the record of the Second Appeal.

(N.M. Jamdar, J.)