

Sarnobat

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

CIVIL REVISION APPLICATION NO. 166 OF 2012

Shri Ananda Ganpati Jadhav
and Anr.

.. Applicants.

Vs.

Shri Vitthal Hari Jadhav.

.. Respondents.

Mr. Vikramsing Yadav a/w Shri Vinayak R. Patil for the Applicants.
Mr. Shri Sachin S. Padaye I/b Mr. Girish R. Agarwal for the Respondent
No.1.

CORAM : M. S. SONAK, J.

DATE : 27th NOVEMBER, 2017.

P. C. :

1. Challenge in this Revision Application is to the order dated 16th July, 2011, by which the Court has condoned the delay of 175 days in instituting the Appeal subject to payment of costs of Rs.1,500/-.
2. Learned counsel for the applicants submits that the Appeal instituted by respondents before the District Court was itself not maintainable and therefore, the impugned order by which the delay has been condoned, is itself without jurisdiction.
3. The delay of 175 days has been condoned after respondents demonstrate sufficient cause for instituting the Appeal beyond the prescribed period of limitation.
4. There is no case made out to interfere with the exercise of

discretion in condoning the delay. The issue of maintainability of Appeal can always be raised by the Applicants before the Appellate Court. However, there is no ground made out to interfere with the impugned order.

5. With liberty as aforesaid, this Revision Application is dismissed. It is made clear that this court has not expressed any opinion on the issue of maintainability of Appeal. Such issue if raised, is to be decided by the Appellate Court on its own merits and in accordance with law.

6. Revision Application is disposed of with liberty as aforesaid. The interim order if any, stands vacated.

7. The parties to appear in the Appeal Court on 20th December, 2017 and produce authenticated copy of this order.

[M. S. SONAK, J]