

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

**CIVIL APPLICATION NO. 568 OF 2015
IN
SECOND APPEAL (ST) NO. 29729 OF 2014
IN
REGULAR CIVIL APPEAL NO. 171 OF 2007
IN
REGULAR CIVIL SUIT NO. 61 OF 1986**

Rajaram Dhaku Sawant,
since deceased through his L.Rs.

1) Santosh Rajaram Sawant & Ors.

...Applicants

vs.

Ambaji Narayan Sawant,
since deceased through his L.Rs.

1A) Narayan Ambaji Sawant & Ors.

...Respondents

MR.Abhay Parab for Applicants /Appellants.

Mr.Jayom Shah for Respondent No.1B.

**CORAM : S.C. GUPTE, J.
24 FEBRUARY 2017**

P.C.:

Heard learned Counsel for the parties.

2 This civil application seeks condonation of a delay of 174 days in filing the present second appeal. The delay is explained in paras 3 and 4 of the civil application.

3 It is submitted that the Applicants did not have all the papers in place to submit to their lawyers in Mumbai to enable them to prepare the second appeal. The Applicants have also pleaded indigent circumstances of the original Applicant. All this is contested by Respondent No.1B.

4 Having regard to the facts of the case, as emerging from the record, the delay in the present case does not appear to be on account of any dilatory tactics or want of *bona fides* or deliberate inaction or negligence on the part of the Applicants / Appellants. There is, therefore, a case for condonation of delay.

5 The civil application is allowed in terms of prayer clause (a). Office shall now number the second appeal and the same shall come up for admission on 3 April 2017. Respondent No.1B waives service. Issue notice to the other Respondents returnable on that day. The Appellants are also permitted to effect a private service and file an affidavit of service by the next date.

(S.C. GUPTE, J.)