

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 1860 OF 2015
IN
SECOND APPEAL (STAMP) NO.30449 OF 2015

Santu Pandurang Pandharbale
(Since deceased through his legal heirs) ...Applicants

vs.

Baburao Vithu Ware And Ors. ...Respondents

....

Mr. Bhushan Walimbe, for the Applicants.

Mr. B.K. Raje, for Respondent Nos. 1 and 2.

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CORAM : S.C. GUPTE, J.

DATED : 10 MARCH 2017

P.C. :

. Heard learned Counsel for the parties.

2. This Civil Application seeks condonation of delay of 1 year and 225 days in filing the present Second Appeal. The circumstances, which led to the delay in filing the Second Appeal, are set out in paragraphs 5, 6 and 7 of the Civil Application. Respondent Nos. 1 and 2 have filed a reply disputing the circumstances. From the respective averments of the parties it does not appear that there are dilatory tactics used by the Appellant or there is any culpable delay in filing the Civil Application. There is no reason not to condone the delay. The Civil Application is accordingly allowed by condoning the delay. Respondent Nos. 1 and 2 have been served with the Second Appeal and are

represented through an Advocate. These Respondents are the only contesting Respondents. The other Respondents are Co-Plaintiffs with the Appellant herein. The Second Appeal is, in the premises, taken up forthwith for admission with consent of Counsel. The subject matter of the appeal involves proposed construction on the suit property B. It is the grievance of the Appellants that the contesting Respondents propose to construct on this property. In a reply filed to the Civil Application for condonation of delay, the Respondents have made it clear that they do not propose to make any construction on suit property B. Learned Counsel for the contesting Respondents reiterates this position. In view of this statement and its reiteration, which is accepted by the Court, learned Counsel for the Appellants does not press his appeal, since that is the only basis, on which the appeal is filed. The appeal is, accordingly, disposed of by accepting the statement of Respondent Nos. 1 and 2.

(S.C. GUPTE, J.)