

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CIVIL APPLICATION (CAS) NO.844 OF 2017
IN
SECOND APPEAL ST. NO.7211 OF 2017

Pralhad s/o Dyandeo Rothe and ors.

-vs-

Shantabai w/o Deochand Patil and anr.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri N. B. Kalwaghe, Advocate for applicants.
Shri Dharaskar, Advocate I/b Shri K. S. Narwade,
Advocate for respondents.

CORAM : A.S.CHANDURKAR, J.

DATE : September 19, 2017

By this application it is prayed that the delay in filing the appeal be condoned. In the application it is stated that applicant No.3 was prosecuting the proceedings and he suffered from various ailments due to which the appeal could not be filed within limitation. In support of the application, medical certificate to that effect has been filed.

The application is opposed by the learned counsel for the non-applicants on the ground that the reasons mentioned are not sufficient. There is nothing on record to indicate that applicant No.3 alone was prosecuting the proceedings.

Considering the nature of litigation between the parties and the reasons mentioned in paragraphs 4 and 5 of the same which appear to be acceptable, delay in filing the appeal stands condoned.

Civil application is allowed and disposed of.

S.A. St. No.7211 of 2017

The question whether illegitimate children would have a right in the property of the father, whether self acquired or ancestral, has been referred to larger bench in ***Revanasiddappa and anr. v. Mallikarjun and ors. (2011) 11 SCC 1.***

Admit on the following substantial question of law :

“ Both the Courts having held that the plaintiffs were illegitimate daughters of Dyandeo and the suit property being ancestral in nature, whether they are entitled for a share in the same ? ”

Shri Dharaskar, learned counsel waives notice on behalf of the respondents.

Hearing expedited.

To be heard along with S.A. No.409 of 2013.

C.A.S. No.845 of 2017

Issue notice, returnable on **31/10/2017**.

Shri Dharaskar, learned counsel waives notice on behalf of the respondents.

Though demarcation of shares as per preliminary decree be carried out, the possession of the parties shall not be disturbed until further orders.

JUDGE