

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

Civil Application (CAS) No.1038 of 2010

In

Second Appeal Stamp No.17684 of 2010

(Smt. Mirabai w/o Sitaram Rampure and another v. Smt. Zingabai w/o
Shivaji Parchake and another)

Office Notes, Memoranda of Coram,
appearances, Court's orders or directions Court's or Judge's orders
and Registrar's order

Shri M.K. Mishra, Advocate for Applicants.

Coram : R.K. Deshpande, J.

Date : 7th February, 2017

This is an application for condonation of delay of 2 years and 280 days caused in filing the second appeal. The Trial Court dismissed the suit for possession on the ground of title. The lower Appellate Court has concurred with the findings recorded by the Trial Court and dismissed the appeal. Hence, the original plaintiffs are before this Court against the concurrent findings of fact.

The plaintiffs relied upon the document at Exhibit 44, which is the receipt of possession from the Society. Except this, there is no document of title produced on record to substantiate the claim for ownership by the plaintiffs. These are the concurrent findings of fact recorded by the Courts below to dismiss the claim for possession.

The only explanation furnished is that the appellant No.1 was suffering from paralysis and, therefore, could not prefer an appeal. The entire period of 2 years and 280 days has not been explained. The appellant No.2 could have preferred an appeal, but the application is made for transposing him as the respondent in this second appeal. The explanation furnished cannot be construed as sufficient cause to condone the delay.

The civil application is dismissed.

Judge.

Lanjewar