

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

Civil Application (CAS) No.113 of 2016

In

Second Appeal Stamp No.25074 of 2015

(Nathu s/o Dajiba Patil v. Smt. Chetna w/o Dhanraj Meshram
(Bhajipalawale) and others)

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

Shri O.W. Gupta, Advocate for Applicant/Appellant.

Coram : R.K. Deshpande, J.

Date : 15th February, 2017

Heard Shri Gupta, the learned counsel for the
applicant/appellant.

There is a delay of 177 days caused in filing an appeal.
Notice was issued to respondents. All of them are served. No one
appears for them. However, the reply is filed opposing the claim
for condonation of delay.

I have gone through the averments made in the
application as well as the reply filed, and after going through the
same, I am satisfied that a sufficient cause is made out for
condonation of delay. Hence, the delay caused is condoned.

The civil application is allowed and disposed of.

Second Appeal Stamp No.25074 of 2015 :

Heard the learned counsel for the appellant on the merits of the matter.

The question involved is about the share in the property payable to the plaintiffs. The Trial Court has held that the plaintiffs are entitled to 1/4th share jointly in the suit property, and the defendant is entitled to 3/4th share. The lower Appellate Court has modified the decree passed by the Trial Court, and the plaintiffs are held entitled to 1/3rd share in the suit property.

Undisputedly, the property was ancestral property in the hands of Dajiba Patil, who had son Natthu, the defendant, and a daughter Tuljabai. The plaintiffs are the daughters of the legal heirs of Tuljabai. Tuljabai died in the year 1988, whereas Dajiba died in the year 1985. In such a situation, the question involved is whether the Courts below were right in holding that the plaintiffs had 1/3rd or 1/4th share in the suit property.

Admit.

Civil Application (CAS) Stamp No.25075 of 2015 :

Issue notice to the respondents, returnable on 7-6-2017.

Service by RPAD in addition to regular mode, is allowed.

Judge.

Lanjewar