

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 430 OF 2018
IN
SECOND APPEAL NO. 462 OF 1991

SHAIKH CHAND SHAIKH PIRAN
LRS SHAIKH IBRAHIM AND OTHERS
VERSUS
YASIN BADRUDDIN LRS MUMTAB BEE AND OTHERS

Advocate for Appellants : Shri P.R.Patil.
Advocate for Respondent Nos. 1-A to 1-D : Shri A.A. Khan.

CORAM : RAVINDRA V. GHUGE, J.
Dated : 12th January, 2018

PER COURT :

1. Heard Shri Patil, learned advocate for the applicants and Shri Khan, on behalf of respondent Nos. 1-A to 1-D.
2. One of the appellants Shaikh Isa Shaikh Chand has passed away and the applicants are his legal heirs who desire to step into the shoes of deceased applicant 1-A.
3. The delay caused in filing this application is about three years and six months.
4. Shri Khan, learned advocate has strenuously opposed this application contending that the reasons assigned are neither

reasonable nor acceptable. The delay is quite large and does not deserve to be condoned. In the alternative, he submits that heavy costs may be imposed upon the applicants for the delay.

5. I find from the record that this Court has admitted the Second Appeal No. 462/1991 on 29/10/1991 and substantial questions of law have been formulated in terms of ground Nos. 1, 2, 4 & 5. Since, the Second Appeal is pending for final hearing for about 20 years, the possibility cannot be ruled out that the parties may not have had an occasion to inform the learned advocate of the appellants about the death of appellant No. 1-A. Since, the property involved in the pending proceedings is House No. 384 at village Pilkad, Taluka Chalisgaon, District Jalgaon, refusal to condone delay would result in an irreparable harm and serious prejudice to the appellant. By imposing cost, the hardships being suffered by the respondent could be softened.

6. Considering the above, this application is allowed. The delay is condoned on the condition that the applicant would deposit an amount of Rs. 4,000/- in this Court on/or before 09/02/2018. The non-applicants can withdraw the said amounts in equal proportions without any conditions.

7. The applicants shall be brought on record in the Second Appeal, on/or before 09/02/2018, and the Second Appeal shall be listed for final hearing on 15/02/2018.

(RAVINDRA V. GHUGE, J.)

S.P.C.