

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(1) CA 10614/2017
911 CIVIL APPLICATION NO. 10614 OF 2017
IN SAST/24924/2017 WITH CA/10615/2017 IN
SAST/24924/2017

SHRIDHAR NAGNATH SWAMI
VERSUS
LATIKABAI BABU SWAMI AND OTHERS

...
Advocate for Applicant : Shri P.V.Mandlik, Senior Advocate i/b.
Shri P.P.Mandlik
Advocate for Respondent No.1 & 2 : Shri Amit S.Deshpande

...
CORAM : P.R. BORA, J.
Date: June 27, 2018
...

PER COURT :-

1. Heard learned senior counsel for the applicant and learned counsel appearing for the respondents.

2. Learned senior counsel for the applicant submitted that under the bonafide belief that the Writ Petition would lie against the impugned Judgment and Order, the applicant -appellant had preferred the Writ Petition, however during the course of hearing of the said Writ Petition, when it was realized that against the impugned Judgment and order, appropriate remedy would be to file Second Appeal, the appellant withdrew the said Writ Petition with liberty to file Second Appeal against the impugned judgment

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and order.

3. Learned senior counsel submitted that the Writ Petition was filed by the applicant well within the period of limitation. Learned counsel further submitted that the delay, which has been caused in filing the Appeal is thus for the bonafide reason and more particularly, for the reason that the applicant was bonafide agitating on a wrong Forum. Learned counsel therefore, prayed for condoning the delay, which has occasioned in filing the present Appeal for the aforesaid reason.

4. Learned counsel for the respondents has submitted for passing appropriate orders. Hence, the following order:

ORDER

1. The delay caused in filing the Appeal is condoned.
2. Civil application for condonation of delay stands allowed and disposed of.

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3. The Second Appeal be registered in accordance with law.

4. On registration of the Second Appeal, issue notice to the respondents. Learned counsel Shri Amit Deshpande waives service for respondent Nos.1 and 2, who are the only contesting respondents. As submitted by learned Senior counsel, respondent Nos.3 to 12 are formal respondents. Service complete.

5. List the appeal for further consideration after one week.

(P.R. BORA, J.)

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