

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**946 CIVIL APPLICATION NO. 13140 OF 2017
IN SAST/31452/2012**

**PANDHARINATH PARSHRAM SHELKE, DIED THR. L.RS. BHIMABAI
AND ORS
VERSUS
RAGHUNATH PARASHRAM SHELKE AND ORS**

...
Advocate for Applicants : Mr. Yogesh D. Kale
Advocate for Respondents No. 1,2B, 2C & 2D To 2d : Mr. A.S. Gandhi
....

CORAM : V.L. ACHLIYA, J.

DATED : 28th AUGUST, 2018

PER COURT:-

1. The applicant – appellant has moved this application for condonation of 26 days delay in filing the Second Appeal.
2. Heard the learned counsel for the applicants-appellants and the respondents.
3. In brief, it is the contention of the applicants that the delay in filing the appeal was not deliberate and intentional but due to sufficient cause. According to the applicants, they are residing in remote area. They are not conversant with the legal procedure to be followed for filing the appeal. On receiving the advice that they have to file an appeal before this Court, the applicants have approached the advocate and filed the present appeal. In the process, the delay of 26 days has been caused. Learned counsel for the applicants further submits that applicants have a good case to succeed in appeal. In case, the delay is not condoned there is every likelihood that their case may be rejected for technical reason.

4. On the other hand, the learned counsel for the respondents opposed the application with contention that no sufficient cause has been shown to condone the delay. Learned counsel further submits that the appeal is also not maintainable as the appellant has handed over the possession.

5. On due consideration of the submissions advanced, I am of the view that delay deserves to be condoned. The cause assigned by the applicants is sufficient to condone the delay. If delay is condoned, no serious prejudice would cause to the respondents. I am therefore inclined to allow the application. Accordingly, the application is allowed. Delay condoned.

6. Appeal be registered and place for admission on 11.09.2018, first on board.

7. Parties are directed to personally remain present in the Court on the next date of hearing.

(V.L. ACHLIYA)
JUDGE

SPR