

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

**CIVIL APPLICATION NO.1656 OF 2017
IN
SECOND APPEAL (ST) NO.10361 OF 2017**

**WITH
CIVIL APPLICATION NO.1657 OF 2017
IN
SECOND APPEAL (ST) NO.10361 OF 2017**

Shri. Mahadev Hari PawaskarApplicant
V/s.
Shri. Prakash Anant Pawaskar & Ors.Respondents

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Mr. Ashish S. Gaikwad a/w. Ms Bhavana Khichi, Advocate for the Applicant.

Mr. Raju D. Suryawanshi, Advocate for Respondent Nos.1, 9 to 14, 15A to 15D and 16.

CORAM : M.S. SONAK, J.

DATE : 22nd FEBRUARY, 2018

P.C.

1. Heard Ms Bhavana Khichi, the learned counsel for the applicant and Mr. R.D. Suryawanshi, the learned counsel for Respondent Nos.1, 9 to 14, 15A to 15D and 16.
2. The learned counsel for the applicant submits that, services have been completed upon all the respondents and even after affidavit of service has been filed, there is delay of about 90 days in institution of the second appeal. The explanation in Para 4 is that wife of the applicant is suffering from diabetics, which has resulted into a

gangrene. He states that, the applicant was required to attend his wife on account of her medical condition and therefore, there is delay in institution of this appeal.

3. Mr. Suryawanshi, the learned counsel for Respondent Nos.1, 9 to 14, 15A to 15D and 16 states that there is no medical certificate produced on record. He submits that this is the second round of litigation and it is not as if the applicant was not aware of the impugned judgment and order.

4. Taking into consideration the cause shown, the delay is required to be condoned. The cause indicated in Para 4 certainly constitutes sufficient cause. The delay is also not inordinate. However, as submitted by Mr. Suryawanshi, some costs can be imposed upon the applicant.

5. Accordingly, the delay in institution of the appeal is condoned subject to payment of cost of Rs.2,000/- to be paid within a period of two weeks from today. The costs to be either directly paid to the learned counsel Mr. Suryawanshi or to be deposited in this Court, so that the same can be withdrawn by the concerned advocate.

6. The Civil Application for condonation of delay is disposed of in the aforesaid terms.

(M.S. SONAK, J.)