

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**SECOND APPEAL NO. 662 OF 2017
WITH
CIVIL APPLICATION NO. 1122 OF 2017**

Vishal Vishnu Mahagaonkar & Anr.	...	Appellants
V/s.		
Parshram Vitthal Kasar & Ors.	...	Respondents

- Mr.Akshay Petkar for the Appellants.
- Mr.Vishwajeet S. Kapse for the Respondents.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 4th JUNE, 2018.

P.C. :

1] Heard learned counsel for the Appellants and learned counsel for the Respondents.

2] This Second Appeal is preferred against the judgment and order dated 17/03/2017 passed by the District Judge-1, Khed, below the Civil Misc. Application No.44 of 2015.

3] The said application was preferred for condonation of delay of 1642 days caused in filing appeal challenging the judgment and decree dated 03/03/2011 passed in Regular Civil Suit No.03 of 2006 by the Court of Civil Judge, Junior Division, Khed.

4] There is a clear admission, given by the Appellant, in his cross-examination, that in August 2013 itself he has received the notice from the Court and despite the receipt of the said notice, he has not appeared in the execution proceeding. Further, he has admitted that on the receipt of the said notice, he and his aunt approached the Advocate and as per the internal arrangement arrived at between them, his aunt Smt.Anandi Kate was to appear in the execution proceeding through the Advocate and accordingly, one Advocate Mr.Damle was appointed to represent in the execution proceeding.

5] In view of this clear admission on the part of the Appellant that he had received the notice of the execution in August-2013 itself, there is no sufficient explanation offered or any reason adduced as to why he has filed this application for condonation of delay after two years i.e. in the year 2015. As rightly observed by the Appellate Court, in the absence of any explanation offered about this delay, such a huge and inordinate delay cannot be condoned. The Appellate Court has rightly in this respect relied upon the various judgments of the Hon'ble Apex Court, holding that the expression "sufficient cause" is though required to be considered liberally with a justice oriented approach, such explanation must be reasonable and bonafide, showing that applicant has acted with due diligence.

6] Here, in the case, in absence of such sufficient cause on record, the Appellate Court has rightly dismissed the Appellant's application for condonation of delay. In the Second Appeal, no ground is made out to interfere with the said finding.

7] Hence, no case is made out for admission. The Second Appeal stands dismissed.

8] In view of disposal of Second Appeal, nothing survives in the Civil Application and therefore, it also stands disposed of.

[DR.SHALINI PHANSALKAR-JOSHI, J.]