

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****WRIT PETITION NO. 9984 OF 2012****Dada Yashwant Patil & Ors.****..... Petitioners****VERSUS****Sopan Bhima Davare****(since deceased through his legal heirs)****..... Respondents**

Mr.R.V.Bansode for the Petitioners.

None for the Respondents.

CORAM : R.D. DHANUKA, J.**DATE : 3rd SEPTEMBER, 2018****P.C.**

By this petition filed under Article 227 of the Constitution of India, the petitioners (original defendant) have impugned the order dated 23rd August, 2012 passed by the learned District Judge – 3, Sangli allowing the application for condonation of delay in filing appeal impugning the judgment and decree dated 29th April, 2009 passed by the learned IIIrd Joint Civil Judge, Junior Division in R.C.S.No.148 of 2007. There was delay of 2 years and 60 days in filing the said appeal.

2. The petitioner herein opposed the said application for condonation of delay. After recording reasons, the learned District Judge has condoned the delay however on payment of cost of Rs.500/-. The learned District Judge has accepted the explanation rendered by the respondents in the application (Ex.1).

3. In my view, the learned District Judge ought to have imposed a reasonable cost atleast of Rs.2,000/- while condoning the delay.

4. I, therefore, pass the following order :-

(a) Impugned order dated 23rd August, 2012 passed by the learned District Judge – 3, Sangli is upheld with modification insofar as payment of cost is concerned.

(b) The respondents are directed to pay a cost of Rs.2,000/- to the petitioners within four weeks from the date of communication of this order.

(c) The learned District Judge shall proceed with the said Civil Misc. Application No.223 of 2011 expeditiously on its own merits without being influenced by the observations made in the impugned order dated 23rd August, 2012 which is subject matter of this writ petition.

5. Writ petition is disposed of in the aforesaid terms.

6. The petitioner is directed to convey this order to the learned District Judge and also to the respondents simultaneously for compliance.

7. The parties as well as the learned District Judge to act on the authenticated copy of this order.

[R.D. DHANUKA, J.]