

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3855 OF 2013

Shri Gulab Sonaba Warghade and others	... Petitioners
v/s	
State of Maharashtra and others	... Respondents

None for Petitioners.

Mr A.R. Metkari, AGP for Respondent No.1.

Mr Jaydeep Deo for Respondent Nos.2, 4 and 5.

CORAM : B.P. COLABAWALLA J.

DATE : 28TH NOVEMBER, 2018.

P.C. :-

1. This Writ Petition has been filed in the year 2013 challenging the order passed by the Court of District Judge, Pune in Civil Miscellaneous Application No.729 of 2010. This Application was filed under section 5 of the Limitation Act 1963 seeking a condonation of delay of 396 days in filing the Appeal. The Appeal was filed to challenge the final judgment and decree dated 13th July 2009 passed in Regular Civil Suit No.39 of 2007. The appellate court did not find any sufficient reason to condone the delay and therefore dismissed the Application.

2. When the matter is called out today, none has appeared on behalf of the Petitioners. Writ Petition is therefore dismissed for want of prosecution. In any event, I find that the Petitioners have an alternate remedy of filing a Second Appeal as held by the Supreme Court in the case of **Shyam Sundar Sarma v/s Pannalal Jaiswal and others [(2005) 1 SCC 436]** and more particularly paragraphs 8 to 10 thereof.

3. In this view of the matter also, this Writ Petition need not be entertained.. It is accordingly dismissed.

(B.P. COLABAWALLA J.)