

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

**CIVIL APPLICATION NO. 841 OF 2018
IN
SECOND APPEAL (ST.) NO. 17704 OF 2018**

Mahadeo Dada Waghmode & Ors. ... Applicants
V/s.
Namdeo Dhuleo Waghmode & Anr. ... Respondents

- Mr.Shriram S. Choudhari for Applicants.
- Mr.Yagnesh R. Rathod i/b. Mr.Rahul S. Kadam for Respondents.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 2nd AUGUST, 2018.

P.C. :

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

2] This application is filed for condonation of delay in preferring the Second Appeal against the judgment and decree dated 27/09/2001 passed in Regular Civil Suit No. 186 of 1994.

3] It is submitted that the Respondents had filed this suit against the Applicants for possession of the suit property. After

hearing both the parties, the trial Court partially decreed the suit on 27/09/2001. Being aggrieved thereby, the Respondents had filed Regular Civil Appeal No.11 of 2002 in the District Court at Baramati. The Applicants had engaged their Advocate therein but according to them, their Advocate remained absent and did not inform them about the date of hearing. As a result, the First Appeal came to be allowed on 24/06/2005.

4] The Applicants came to know about the same only when they received the notice of execution proceeding on 14/08/2013. Immediately thereafter, they applied for 'Certified Copy' on 31/08/2013 and filed Review Application, with condonation of delay application, bearing Misc. Application No.75 of 2013. The said application came to be dismissed by the First Appellate Court on 24/08/2015. The Applicants had then preferred Writ Petition No.8066 of 2016, which also came to be dismissed by this Court on 11/8/2016 holding that the cause for the delay in challenging the judgment and decree passed by the First Appellate Court and for preferring for Review Application is not sufficient. After two years thereafter, this Second Appeal is preferred, which is in a way challenging judgment and decree passed in Regular Civil Appeal No.11 of 2002 on 24/06/2005.

5] Thus, even a cursory glance to the chronology of the events discussed above is more than sufficient to show that no sufficient cause is made out for condonation of such a delay of more than 13 years in filing this Second Appeal, even from the decree passed by the First Appellate Court and especially when the reason given for condonation of delay in preferring Review Petition was found to be not sufficient and the said reason is also not accepted by this Court in Writ Petition.

6] This Civil Application is therefore without merits and hence, stands dismissed.

[DR.SHALINI PHANSALKAR-JOSHI, J.]