

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

C.A.S. NO. 576/2018 IN SECOND APPEAL ST. NO. 7654/2018

(SHANTABAI PANDURANG THOOLKAR & OTHERS VERSUS MUDRIKABAI SHRAWAN JARONDE)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri P.A. Markandeywar, counsel for applicants.
Shri R.V. Gaikwad, counsel for non-applicant.

CORAM : A.S. CHANDURKAR, J.

DATE : OCTOBER 11, 2018.

By this application, it is prayed that the delay in filing the second appeal be condoned.

In the application, it is stated that after the judgment of the appellate Court the appellants had engaged Shri B.H. Sontakke as their Advocate in view of his experience in handling civil cases. It is stated that applicant no.4 was informed that he would be called as and when necessary. In March-2018, the applicant no.4 got a message that their counsel had expired and hence he contacted the family members of the said counsel. After searching for the papers in his office, he found that the same were lying in the office of the said counsel. Thereafter present appeal has been filed.

Reply has been filed opposing the aforesaid contentions. It is submitted that the reasons given are not sufficient and on one pretext or the other, the adjudication on merits is being delayed. Despite succeeding in two Courts, the non-applicant has not yet got the fruits of the decree.

Perused the application as well as the reply. On hearing the learned counsel for the parties it is found that the

certified copies were applied immediately after the judgment of the first appellate Court and the same were received in September-November, 2016. It is stated that thereafter the copies were handed over to the learned counsel who had thereafter expired. Considering the reasons mentioned and though the prayer as made is opposed, in the light of statements made on oath by the applicant no.4, I am inclined to condone the delay subject to imposing costs in the applicants.

Accordingly, the delay in filing the second appeal is condoned subject to costs of Rupees Ten Thousand to be paid by the applicants to the non-applicant within a period of four weeks from today. Civil application is allowed in aforesaid terms and disposed of.

JUDGE

APTE

**Rohit
Dattatraya
Apte**

Digitally signed by
Rohit Dattatraya Apte
Date: 2018.10.12
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