

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

CAS No.1187/2017 in Second Appeal St. No.23734/2016
(Sau. Janabai Ganpatrao Urkude .vs. Santosh Maroti Chinchulkar & another.
)

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

Court's or Judge's orders.

Mr. S.D. Chande, Advocate for Applicant.
Mr. B.M. Kharkate, Advocate for Respondents.

CORAM : Manish Pitale, J.
DATED : March 21, 2018.

This is an application for condonation of delay filed on behalf of the applicant- appellant. It is stated in the application that there is a delay of 755 days in filing this appeal, although the learned counsel appearing on behalf of the non-applicants-respondents disputes the same and states that the delay is actually of 765 days.

In this application, it has been submitted that the applicant is an old lady of 74 years and she has been suffering visual impairment in both her eyes to the extent of 100% since the past four years. A disability certificate issued by the Civil Surgeon, General Hospital, Chandrapur, has been placed on record, certifying the fact that the applicant is suffering from 100% visual impairment in both her eyes. It is further pointed out that apart from the aforesaid physical disability suffered by her, the applicant did not have funds to approach a counsel for filing of the accompanying appeal. It is stated that eventually a social worker helped her to engage a counsel and it was thereafter that the

accompanying appeal is filed. Although the reply has been filed on behalf of the non-applicants-respondents opposing condonation of delay, I find that sufficient grounds have been made out by the applicant-appellant for condonation of delay in filing the accompanying appeal. Accordingly, this application is allowed and delay is condoned.

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Heard counsel for the parties.

One of the substantial questions of law that arises in this appeal is as follows:-

“Whether the suit for possession filed by the respondents was within limitation, even if it was a suit based on title claimed on the basis of registered sale deed dated 25.09.1984, by applying Article 65 of Schedule to the Limitation Act, 1963?”

Issue notice returnable on 18.04.2018.

JUDGE