

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**19 CIVIL APPLICATION NO.4018 OF 2018
IN SAST/1063/2018**

**SARDAR HARJIT SINGH TIRATHSINGH SAWHNEY
VERSUS
SARDAR PARAMJEET SINGH SARDAR TIRATH SINGH SAWHNEY**

...
Advocate for Applicant : Party in-person
...

CORAM : SMT. VIBHA KANKANWADI,J.

DATE : 14th JANUARY, 2019

PER COURT :

1 Heard party in-person. He intends to challenge the Judgment and Decree passed in Regular Civil Appeal No.258/2015 dated 06.07.2017 by learned District Judge-12, Aurangabad, whereby his appeal came to be dismissed, thereby confirming the Judgment and Decree passed in Special Civil Suit No.379/1996 passed by learned Civil Judge Senior Division, Aurangabad on 04.08.2007.

2 It has been submitted that he had immediately applied for the copy of the Judgment and Decree before the Appellate Court. He received message from the District Court, Aurangabad on 11.10.2017 that the certified copies are ready. Accordingly, he collected the copy on 12.10.2017

by paying the deficit fees. However, at that time it is stated that the decree was not prepared. He was again required to file an application and obtain decree since it was necessary to produce along with appeal. The decree was prepared on 09.01.2018 and thereafter the certified copy was given to him. There is delay of 69 days delay in filing the Second Appeal. He, therefore, submits that said delay is unintentional. His vital rights are involved and therefore he has prayed for condonation of the delay.

3 Notice was duly served on the respondent, but he failed to appear.

4 Taking into consideration the fact that the application is uncontested and further it can be seen from the certified copies on record that the party in-person had applied for the certified copies within reasonable period. However, it appears that the decree itself was not prepared. Definitely, it can be seen that it is prepared on 09.01.2018. So, there is substance in his say that the delay is unintentional. Taken into consideration also the fact that party in-person was conducting the affairs of the appeal before the First Appellate Court, liberal approach is to be taken. Hence, following order.

ORDER

- 1 Application is allowed.
- 2 Delay caused in filing Second Appeal is hereby condoned.
- 3 Registry to verify and register the Second Appeal and it be placed on 05.02.2019.

(Smt. Vibha Kankanwadi, J.)

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