

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

**16 CIVIL APPLICATION NO.2936 OF 2018
IN FAST/3186/2018 WITH**

**MADHUKAR BABURAO GURULE
VERSUS
VISHNU KACHRU SHINDE AND ANR**

...

Advocate for Applicant : Mr. Choudhari Yuvraj S.
Advocate for Respondents : Mr. Gholap Ajit M.

CORAM : MANGESH S. PATIL, J.

DATE : 05/12/2019

PER COURT :

Heard both the sides.

2. The two grandfathers are fighting for the custody of the minor child after demise of its parents, unfortunately in succession, on the same day. The child is in the custody of respondent No. 1 who is maternal grandfather. There is delay of 169 days in filing the First Appeal for the appellant who is the paternal grandfather.

3. Taking into account the fact that the matter was decided by the District Court by publishing a notice in a daily at Aurangabad but the applicant is a resident of Taluka Sinnar District Nashik, according to him he had no knowledge about the proceeding before the District Court Aurangabad which has resulted in causing the delay without going into the cause of the delay in detail, when the welfare of the child is of paramount consideration it would be appropriate to decide the appeal on merits rather than allowing to be decided by default.

4. For the reasons mentioned in the application the delay is condoned.

5. The Civil Application is disposed of.

(MANGESH S. PATIL, J.)

mkd