

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

3 CIVIL APPLICATION NO.8946 OF 2018
IN SAST/3355/2018

Ganpati s/o Gundappa Biradar,
Age 50 years, Occupation Agri.,
R/o Malewadi Tq. Udgir Dist.
Latur. ... Appellant.

VERSUS

Ram s/o Gundappa Biradar,
Age 45 years, Occupation Agri.,
R/o Malewadi Tq. udgir Dist
Latur. ... Respondent.

...
Advocate for Applicant : Pathade Vishweshwar H.
Advocate for Respondent : Mr. R. S. Shinde.
...

CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 04-01-2019.

ORAL ORDER :

1. Present application has been filed for condonation of delay which has been caused in filing second appeal.
2. The applicant/ appellant is the original plaintiff who had filed Regular Civil Suit No.372 of 2014 before Civil Judge, Senior Division, Udgir Dist. Latur for perpetual injunction. It came to be dismissed on 16-12-2014. Thereafter, the present applicant / appellant preferred appeal bearing Regular Civil Appeal No.10 of 2015, before learned District Judge, Udgir who dismissed the appeal on 07-10-

2017. However there is delay of about 25 days. The applicant contends that, he resides in a remote village in Udgir taluka and was not aware about the decision. Thereafter, when he came to know about the decision, he applied for certified copies and then wanted to engage an advocate at Aurangabad to prefer the second appeal. He is an agriculturist and there is drought like situation in his district since last about three to four years. Under such circumstance the time was consumed for the preparation of the second appeal. The said delay is not intentional. He also submits that, his vital rights are involved. He is fighting for his rights in well which according to him is a common well between him and the defendant, who is his real brother, and therefore, he has prayed for condonation of delay.

3. The application has been objected by the respondent on the ground that, the respondent is also coming from the same situation. Whatever ground has been canvassed by the applicant/ appellant is not reasonable.

4. Heard learned advocate for Applicant Mr. Pathade Vishweshwar and learned advocate for Respondent Mr. R. S. Shinde. Perused the documents on record.

5. It is not in dispute that both the parties i.e. applicant/appellant as well as respondent are agriculturist from a taluka place. The delay is of only 25 days, and therefore, taking a liberal approach the

delay deserves to be condoned. Hence, following order.

ORDER

- 1) The application is hereby allowed.
- 2) The delay caused in filing second appeal is hereby condoned.
- 3) Registry to verify and register the second appeal.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-.