

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

**CIVIL APPLICATION NO. 3980/2019 IN
R.C. NO.225/2019 IN
CIVIL APPLICATION (ST) NO.9192/2019
IN SECOND APPEAL NO.222 OF 2001**

DATTATRAYA ANANDRAO BORUDE
VERSUS
SAU. MUKTABAI BABURAO BORUDE AND OTHERS

...

Mrs.C.S. Deshmukh, Advocate for the
applicant.

Mr.M.S. Kulkarni, Advocate for Respondent
Nos.1B and 4B

...

CORAM: V.L. ACHLIYA,J.
DATE : 21.06.2019

ORAL ORDER:

The present application is filed to set aside the Registrar's order dated 21st March, 2002 i.e. refusal to register the appeal for non removal of office objection within stipulated period. It is submitted that the order was passed on 5th April, 2002 by the Registrar, High Court Principal Seat at Bombay. Consequent to establishment of Bench of High Court of Bombay at Aurangabad, the appeal presented by the appellant was transferred to this Court. The applicant was

not aware as to order dated 21.03.2002 passed by Registrar at Principal Seat at Mumbai. Due to this reason, the application could not be filed immediately after passing of the order. After taking inspection of record by the Advocate representing appellant, the application is filed. Due to this reason the delay was caused in filing application. It is submitted that the delay caused in filing application was unintentional and deserves to be condoned.

2. Learned counsel for the respondents opposed the application with the contention that there is inordinate delay of more than 6000 days in filing application.

3. Considering the cause assigned in the light of unchallenged pleadings made in the application, I am of the view that the delay deserves to be condoned. The delay in filing the application appears to be not intentional and deliberate, but occurred due to the reasons that the present appeal was presented at Principal Seat of High Court at Bombay. On establishment of Bench of High Court of Bombay at Aurangabad, the record and

proceeding of the case transferred to this Court i.e. Bench of High Court at Aurangabad. Due to this reasons and communication gap between appellants' advocate, the steps could not be taken to set aside the order of dismissal passed by Registrar. In that view the delay deserves to be condoned and the application deserves to be allowed. Accordingly, the application is allowed in terms of prayer clauses "B", "C" and "D". The Civil Application Stamp No.9192/2019 be registered.

[V.L. ACHLIYA]
JUDGE

SGA