

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

**CIVIL APPLICATION NO.8655 OF 2018
IN SAST/11415/2018**

SULOCHANA JAYWANTRAO DESHMUKH
VERSUS
SHANTABAI RAGHUNATH YEOLE AND OTHERS

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Mr.S.S. Dixit, Advocate for the applicant.
Mr.V.Y. Bhide, Advocate for respondent nos.
2, 3, 5 and 6.

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CORAM: V.L. ACHLIYA, J.
DATE : 19.07.2019

ORAL ORDER:

This application is filed seeking condonation of delay of 75 days in filing the appeal.

2. Heard learned counsel for the applicant and counsel representing respondent nos.2, 3, 5 and 6.

3. Respondent Nos.1, 7 and 14 are reported to be dead.

4. It is submitted that the Respondent Nos.1 and 14 are died without leaving legal heirs and the legal heirs of Respondent No.7

are already on record. It is submitted that the Respondent Nos.8 to 13 are the legal heirs of deceased respondent no.7. It is further submitted that the applicant has deleted the name of respondent no.21 and other respondents, though served they are absent.

5. In brief, it is the contention of learned counsel for applicant that the delay caused in filing the appeal was occurred due to non-communication of decision in the case. As soon as the applicant got knowledge about the decision in the case, the applicant has taken steps to file appeal. Due to old age the appeal could not be filed within time.

6. Mr.V.Y. Bhide, learned counsel for respondent nos.2, 3, 5 and 6 opposed the application with contention that the reasons assigned to condone the delay are false, concocted and by way of after thought. It is submitted that for want of taking steps against respondents, who are reported to be dead, the appeal deserves to be dismissed.

7. Considering the overall facts of the

case and the reasons assigned to condone the delay, which remains uncontroverted and unchallenged, I am of the view that the delay deserves to be condoned. In case, the delay is condoned, no serious prejudice would cause to respondents as the appeal will be decided on merit. In case, delay is not condoned, there is every likelihood that the meritorious case may be rejected for technical reasons. I am therefore inclined to allow the application. The application is allowed in terms of prayer clause "A". The delay condoned. Appeal be registered, subject to removal of office objections. The persons whose names are deleted in the application, the names of same respondents in the appeal also be deleted.

8. The Civil Application be marked as disposed of.

[V.L. ACHLIYA]
JUDGE

SGA