

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

922 CIVIL APPLICATION NO.4010 OF 2018
IN RC/1563/2018

TUKARAM SADASHIV BHOSLE
VERSUS
SADASHIV KONDIBA BHOSLE AND OTHERS

...
Advocate for Applicant : Mr. Narwadkar Mrigesh D.

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CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 28-03-2019.

ORAL ORDER :

1. Present application has been filed for getting the delay of 459 days condoned in filing second appeal.
2. The applicant contends that, after the dismissal of the first appeal as well as cross-objection, there was an understanding between him and the defendants that, they will not file appeal or challenge whatever Judgment and decree has been passed. But then he received notice in respect of the second appeal filed by the defendants, and therefore, after obtaining necessary documents, he approached the advocate at Aurangabad. The delay is unintentional. It is stated that, the property is the residential house in which he, his wife and children are residing, and therefore on these ground he prayed for condonation of delay.
3. The respondents were served, however nobody appears. That means, the reason that has been given for condonation of delay has gone unchallenged. Though it is not so convincing, if the party has

right to appeal and was dissatisfied with the Judgment and decree, the party should canvass the said right. Further according to the appellant he had also received notice of Second Appeal No.505 of 2016 which was filed by the present respondents. That means, there was an opportunity available to the present appellant to file cross-objection, but that opportunity was also not availed by the appellant.

4. Under such circumstance though the respondents are not contesting this application, the huge and inordinate delay is not so satisfactorily explained. However, taking into consideration the liberal view and the fact that, the defendants have already filed second appeal, the delay is condoned subject to deposit of cost of Rs.5,000/- (five thousand) with the High Court, Legal Services Authority by the appellant within fifteen (15) days from the date of this order.

5. After the amount is deposited, Registry to verify and register the second appeal and place it for consideration on 1-06-2019. Application is disposed of accordingly.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-.