

- 1 -

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

917 CIVIL APPLICATION NO.7022 OF 2019
IN SAST/14794/2019

ALKA NAMDEO KADU, DECEASED, THROUGH L.RS. NAMDEO
RAMCHANDRA KADU AND OTHERS

VERSUS

MANDABAI REVANNATH GADE AND ANOTHER

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Advocate for Applicants : Shri Borulkar Avinash R.

Advocate for Respondent no.1 : Shri V.V. Tarde

Advocate for Respondent no.2 : Shri R.V. Naiknavare

CORAM: V.L. ACHLIYA, J.

DATE: 06.09.2019

PER COURT :

1] The applicants have moved this application seeking condonation of delay of 80 days in filing second appeal for the reasons set out in detail in the application.

2] Heard learned counsel for the applicants and respondent nos.1 and 2.

3] In brief, it is the contention of learned counsel for the applicants / appellants that the delay caused in filing appeal was not intentional and deliberate, but caused due to the reasons set out in detail in the application. It is submitted that the Advocate

- 2 -

representing the applicants has not informed the decision in the case delivered on 23.10.2018. After knowing the decision in the case, the applicants approached for filing appeal and contacted the officials from Legal Aid Sub Committee in the High Court. After seeking advice and collecting the documents, the appeal was presented. In the process, the delay of 80 days has been caused in filing the appeal. It is submitted that the applicants are the poor persons. Due to improper advice, they could not file appeal within time. In case delay is not condoned, serious prejudice would be caused to the applicants.

4] On the other hand, the learned counsel for the respondent nos.1 & 2 have opposed the application with contention that the delay caused in filing appeal has not been sufficiently explained. The reasons assigned are false and concocted. It is further submitted that in absence of sufficient cause being shown to condone the delay, the application deserves to be rejected.

5] On due consideration of the submissions advanced in the light of unchallenged and un-controverted pleadings made in the application providing explanation for

- 3 -

condonation of delay, I am of the view that the delay deserves to be condoned. In case delay is condoned, no serious prejudice would be caused to the respondents. On the contrary, if delay is not condoned, there is every likelihood that the meritorious matter may be rejected for technical reasons. I am, therefore, inclined to allow the application and condone the delay.

6] Accordingly, the application is allowed in terms of prayer clause [B]. Delay condoned. Appeal be registered subject to removal of office objections. Appeal be listed for admission on 30.9.2019.

7] Learned counsel representing the respondent nos.1 and 2 waive notice before admission for the respondent nos.1 and 2.

8] S.O. to 30.9.2019.

(V.L. ACHLIYA, J.)