

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

Civil Application No. 07569 of 2018
(In Second Appeal Stamp No. 16351 of 2018)

District : Latur

Rekha w/o. Bapu Gaikwad,
Age : 45 years,
Occupation : Household,
R/o. Gondegaon,
Taluka & Dist. Latur,
at present at Yeli,
Taluka Ausa,
District Latur
& 02 others.

.. Applicants
(Original
plaintiffs)

versus

Bapu s/o. Kishan Gaikwad,
Age : 48 years,
Occupation : Agriculture,
R/o. Gondegaon,
Taluka & Dist. Latur
& another.

.. Respondents
(Original
defendants)

.....

Mr. M.L. Dharashive, Advocate, for the applicants.

*Mr. R.B. Deshmukh, Advocate, for respondent no.01
(Absent).*

Respondent no.02 served (Absent).

.....

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 21ST JANUARY 2019

ORAL ORDER :

01. Present application has been filed for

condoning delay of 148 days caused in filing second appeal.

02. Present applicants are the original plaintiffs. They had filed suit for partition and separate possession, being Regular Civil Suit No. 184 of 2010, which came to be dismissed on 07-11-2013. Thereafter, it appears that they had filed Regular Civil Appeal No. 43 of 2015. The said appeal was dismissed on 29-09-2017 by judgment and order passed by the learned District Judge-4, Latur.

03. The applicants have contended that they want to file the second appeal. The applicants further contend that delay has been caused due to illiteracy of applicant no.01. Applicants no.02 and 03 are minor daughters of applicant no.01. Respondent no.01 is the husband of applicant no.01, but she says that he is not maintaining them. Due to the weak financial position, she was not in a position to approach Advocate of this Court. After making necessary arrangements, she has filed the second appeal. However, delay has been caused which is unintentional.

04. Heard learned Advocate for the applicant. None present for respondent no.01. So also, none present for respondent no.02 though served.

05. It can be seen that the applicant no.01 is coming from a village. She is illiterate and taking into consideration the fact that she was also fighting for the rights of the minor daughters, the delay deserves to be condoned by taking liberal approach.

06. Hence, the following order :-

The civil application is hereby allowed. The delay caused in filing the second appeal is hereby condoned. Office to verify and register the second appeal. After registration of the second appeal, same be placed for consideration on 22nd February 2019.

(Smt. Vibha Kankanwadi)
JUDGE

.....