

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

964 CIVIL APPLICATION NO.10866 OF 2018
IN SAST/19585/2018

MANDABAI JANARDHAN DUDILE
VERSUS
PANDHARI SOPAN YELLALE DIED LRS KAUSHALYABAI AND OTHERS

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Mr. R.K. Ashtekar, Advocate for the applicant

Mr. S.V. Dixit, Advocate for the respondents

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CORAM : SMT. VIBHA KANKANWADI,J.

DATE : 18th JANUARY, 2019

PER COURT :

1 Learned Advocate Mr. S.V. Dixit submits that he has instructions to appear on behalf of all the respondents. He may file his Vakalatnama within one week.

2 Present application has been filed for getting the delay of 143 days condoned in filing Second Appeal.

3 Present applicant is the original plaintiff. She had filed Regular Civil Suit No.658 of 2000 before Jt. Civil Judge Senior Division, Ahmedpur for partition and separate possession. It came to be partly decreed on 14.02.2007. Original defendant Nos.1 and 2 challenged the said decree in

Regular Civil Appeal No.174/2011 (Old R.C.A. No.35/2007) before learned District Judge-1, Ahmedpur. The said appeal came to be dismissed in the same civil appeal. The original plaintiff had filed cross objections. Those cross objections were also dismissed. Now, the original plaintiff intends to challenge the said decree. It is stated that she is an old lady having no source of income. It is stated that the properties are in possession of respondents and therefore, she was required to make the arrangements for the expenses.

4 The application has been objected by respondent Nos.1/1 to 1/3 and 2 on the ground that delay of each and every day has not been explained properly.

5 It is to be noted that the suit was filed for partition and separate possession. It is stated by the present applicant that though she is having share in the properties, the properties are in possession of the respondents.

6 Therefore, for the reasons stated in para No.2 the delay is condoned.

7 Registry to verify and register the Second Appeal.

8 It is stated that Second Appeal No.31/2018 and Civil Application is also arising out of same Judgment and Decree between the same parties. Hence, it be tagged with this.

9 Place both the matters for consideration on 18.02.2019.

(Smt. Vibha Kankanwadi, J.)

agd