

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

923 CIVIL APPLICATION NO.10522 OF 2018
IN RC/751/2016

SHANKAR ATMARAM DHENGAL DIED LRS ASHABAI AND ORS
VERSUS
GOPIKABAI TULSIRAM DHENGAL DIED LRS LAXMAN TULSIRAM
DHENGAL

...
Advocate for Applicants : Mr. Undre Vikram S,
Advocate for Respondent No.2 : Mr. S. S. Choudhary
...

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

ORAL ORDER :

1. Present application has been filed to get delay of 688 days condoned for setting aside order dated 24-08-2016 passed by learned Registrar refusing to register the second appeal.
2. The present applicants had filed the second appeal challenging the Judgment and decree passed by learned District Judge-1, Bhoom Dist. Osmanabad in Regular Civil Appeal No.205 of 2014 dated 16-02-2016 and Judgment and decree dated 26-08-2011 passed by Jt. Civil Judge, Junior Division, Washi in Regular Civil Suit No.40 of 2009.
3. The second appeal was under office objection. Opportunity was granted to remove those office objections, however the applicants failed to remove them, and therefore, the registration was refused. The applicants contend that, the delay is unintentional. Now they are ready to comply with the office objections, and therefore, in the

interest of justice, delay should be condoned.

4. The learned advocate appearing for respondent No.2 caveator has raised strong objection by stating that, there is absolutely no reason mentioned for the delay which can be then said that it is not sufficient and reasonable. Respondent No.2 is also the heir of deceased respondent No.1.

5. Heard both sides. Learned advocate appearing for the applicants made submissions in support of his contention.

6. It is to be noted that, the learned advocate appearing for the applicants who has filed the application has not calculated the delay and in fact except bare statement that the delay is unintentional, there is no reason mentioned for explaining delay of 688 days. Applicants themselves are admitting that, opportunities were granted to them to remove office objections by the learned Registrar. Even warning by saying that, it is last chance was also granted before the order dated 24-08-2016 was passed. Thereafter also it appears that, there was no step taken by the applicants to remove the office objections. The office objections were in the nature of replacing the legible copies in the second appeal and supply of the certified copies. Since now the applicant has made compliance or is ready with those legible copies and the certified copy, though the reason may not be happily worded in the application, taking liberal view the delay deserves to be condoned by allowing the application. It is also to be noted that, the subject matter of the suit is immovable property, and therefore, any harsh step to deny

anybody's right cannot be taken. However, at the same time the inconvenience caused to respondent No.2 deserve to be compensated in terms of money. Hence, following order.

ORDER

- 1) Application is hereby allowed.
- 2) The delay caused in getting the order dated 24-08-2016 passed by learned Registrar is hereby set aside subject to deposit of cost of Rs.5,000/- (five thousand) within fifteen (15) days from the date of this order, in this Court.
- 3) After the amount is deposited, it be disbursed to respondent No.2.
- 4) Applicants/ appellants to remove office objections within a week after the deposit of the cost amount.
- 5) After the supply of the copies / removal of office objections, Registry to verify and register the second appeal and place it for consideration on 11-06-2019.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-.