

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.11292 OF 2016
IN
SAST NO.24158/2016

AHILYABAI AJINATH SHINDE
VERSUS
KUNDLIK RAMA AKRE DIED LRS. ARUN AND ORS

...
Adv.N.G.Talekar for applicant
Adv.K.R.Doke for R.1/1,1/1, 2/1 to 2/5
...

WITH
CIVIL APPLICATION NO.11294 OF 2016
IN
S.A.ST. NO.24165/2016

AHILYABAI AJINATH SHINDE
VERSUS
KUNDLIK RAMA AKRE DIED LRS. ARUN AND ORS

...
Adv.N.G.Talekar for applicant
Adv.K.R.Doke for R.1/1, 1/1, 2/1 to 2/5
...

CORAM : MANGESH S. PATIL, J.
DATE : 22.11.2019

PC. :-

Heard both the sides.

2] In these appeals by the original defendant she is seeking condonation of delay of 106 days in filing it.

3] The learned advocate for the applicant submits that there were no *mala fides* and the delay has occasioned. Being a destitute lady it would result in lot

of hardships if she is not allowed to prefer the Second Appeal. The delay therefore having been properly explained in the application may be condoned.

4] The learned advocate for the respondents who are the original claimants 1, 2, 2.1 to 2.5 strongly opposes the application. He submits that the delay has not been properly explained. This is Second Appeal. The applicant must have been litigating since inception by keeping a watch on the proceeding not only in the suit but in the First Appeal as well. Therefore the delay may not be condoned.

5] The principles for condonation of delay have been far too well settled by catena of judgments. The decision in the case of Collector, Land Acquisition Anantnag and another Versus Mst.Katiji and others; (1987) Vol 2, SCC 107 lays down the guidelines to be followed by the Court while considering applications for condonation of delay. Bearing in mind these principles, I find no sufficient and cogent reason to castigate the applicant as having any *mala fides* in protracting the litigation by not preferring the Second Appeal in time. She is a lady aged more than 50 years who has been litigating for the right to immovable property. Her claim for specific performance has been dismissed and she would lose her important right if it is not allowed to be decided on merits by refusing to condone the delay.

6] Therefore, taking a pragmatic view of the matter, for the reasons mentioned in the application, the delay is condoned.

7] Second Appeal be listed for admission on 3/1/2020.

[MANGESH S. PATIL, J.]