

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

Civil Application No. 00634 of 2019
(In Review Application Stamp No. 02016/2017)
(In Second Appeal No. 00150 of 2002)

District : Parbhani

Waman s/o. Bhagoji Chidrawar
(Died) through L.Rs.,
Bhagirathi w/o. Wamanrao
Chidrawar
& others.

.. Applicants.

versus

Shankar s/o. Abarao Chidrawar.

.. Non-applicant

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Mr. S.K. Adkine, Advocate, for the applicants.

Mr. A.A. Mukhedkar, Advocate, for the non-applicant.

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 14TH MARCH 2019

ORAL ORDER :

01. Present application has been filed for condonation of delay and recall of order dated 19-04-2017 in Review Application Stamp No. 2016/2017 and Civil Application Stamp No. 02015/2017 passed by learned Registrar [Judicial].

02. It is contended that the Second Appeal was filed with Civil Application. However, there were

objections which were not removed. The application was filed for review of the application and to modify / challenge the earlier order dated 22-07-2013 passed by this Court in Second Appeal No. 0150 of 2002. But there were objections for the review application which were not removed and, therefore, learned Registrar [Judicial] has refused registration of that application on 19-04-2017. It is stated that the applicants were not aware about the refusal order. So also, learned Advocate appearing for the applicants takes the responsibility stating that he did not notice the said order and communicated to his client and, therefore, there is delay of 488 days. The delay is stated to be unintentional. Now, the applicants have expressed willingness to remove the office objections.

03. The application has been objected strongly by the non-applicant. It has been stated that the delay of each and every day has not been explained and whatever reason has been given, is not sufficient and reasonable.

04. First of all, the fact is admitted that there is delay of 488 days in preferring this application. Learned Advocate appearing for the applicants is blaming himself. Under such circumstance, for the acts of the Advocate, the client should not suffer. The objections were to be

removed by the Advocate. Under such circumstance, it can be said that there is reasonable ground shown for condoning the delay. At the same time, the inconvenience that has been caused to the non-applicant deserves to be compensated in terms of money.

05. Hence, the following order :-

(a) The civil application is hereby allowed.

(b) The delay caused in filing this civil application is hereby condoned, subject to deposit of costs of Rs. 2,000/- [Rupees two thousand] within 15 (fifteen) days from the date of this order, in this Court. After the costs amount is deposited, it be disbursed to the non-applicant herein.

(c) The order passed by learned Registrar [Judicial] on 19-04-2017 is hereby set aside. The applicants to remove the office objections within four weeks thereafter i.e. after deposit of the costs amount.

(Smt. Vibha Kankanwadi)
JUDGE

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