

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

917 CIVIL APPLICATION NO.3298 OF 2018
IN SAST/30895/2017

Rajendra s/o Kisanrao Andhare (Patil,
Age 65 years, occupation Agri.,
R/o. Mankeshwar Tq. Bhoom
Dist. Osmanabad.
And Other (02)

...Applicants.

VERSUS

Sau. Shardabai w/o baburao Shinde,
Age 55 years, Occupation Household,
R/o Shelgaon (Hole), Tal. Barshi
Dist. Solapur.
And Other (01)

...Respondents.

...
Advocate for Applicants : Mr. Shaikh Shoyab
...

CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 22-01-2019.

PER COURT :

1. The Present application has been filed to get condone the delay of 145 days which has been caused for filing the second appeal. By order dated 31st October 2018 explanation was called of all the concerned persons as to why the notices have not been returned in time. The explanation is tendered. It is accepted for the reasons stated therein.

2. Heard learned advocate appearing for the appellants. The present application has been filed to get the delay condoned which that has been caused for filing the second appeal. The appellants are the original plaintiffs who had filed Regular Civil Suit No. 264 of 2008 before Civil Judge, Junior Division, Bhoom for possession. The suit came to be dismissed. They preferred Regular Civil Appeal No. 525 of 2014 before District Judge -1, Bhoom. The appeal came to be dismissed on 03-01-2017. Now the appellants – applicants intend to file the second appeal. However, there is delay of 145 days. It is stated that, applicant No.1 was looking after the matter for applicants No.2 and 3 who are the ladies and are residing at different place. It took time for the applicant No.1 to communicate applicants No.2 and 3 and take a decision to file the second appeal. Thereafter he was ill and was hospitalized from second week of April to third week of May and from third week of June to second week of July. The applicants also contend that, due to poor financial condition they were required to make arrangement for the money and then approach advocate at Aurangabad. The delay is unintentional. On these grounds they have prayed for condonation of delay.

3. The respondents No.1 and 2 are duly served, however they failed to appear. Heard learned advocate appearing for the applicants.

4. It is to be noted that, there is no record produced in respect of hospitalization of the applicant No.1, however a fact is also to be noted is that he is 65 years of age, other two ladies who are residing at different place. It is also stated by them that, they are poor. When they are coming from a rural background, liberal approach is taken and the delay caused in filing second appeal is condoned. Registry to verify and register the second appeal. Application stands disposed of.

5. Put the second appeal for consideration on 21-02-2019.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-.