

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

921 CIVIL APPLICATION NO.8961 OF 2017
IN SAST/32706/2016 WITH CA/8962/2017 IN SAST/32706/2016

SHIVDAYAL RAMSWARUP PARDESHI
LRS KANHAYYALAL SHIVADAYAL PARDESHI
VERSUS
THE STATE OF MAHARASHTRA THRO. THE COLLECTOR NANDURBAR
AND OTHERS

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Mr. A.S. Savale, Advocate for the applicant
Mr. Y.G. Gujrathi, AGP for the respondent No.1/State

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CORAM : SMT. VIBHA KANKANWADI, J.
DATE : 24th JANUARY, 2019

PER COURT :

1 Present application has been filed for getting the delay of 7542 days condoned in filing Second Appeal.

2 Present applicant is the original plaintiff. He had filed Regular Civil Suit No.422/1988 before 2nd Jt. Civil Judge Senior Division, Dhule for declaration that the proceedings conducted under the Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974 by the authorities thereunder be declared as null and void, without jurisdiction and unenforceable in law, not binding on the plaintiff and also for the

consequential relief of perpetual injunction. The said suit came to be dismissed. Thereafter, the present applicant filed R.C.A. No.351/1990 (Old R.C.A. No.134/1990) before Additional District Judge, Nandurbar. The said appeal came to be dismissed on 23.11.1995. Now, the plaintiff intends to file the Second Appeal. It has been contended that the Advocate who was representing the applicant had not communicated the result of the appeal to him nor he sent the copy of the Judgment and order for the perusal of the applicant. Thereafter, the father was not getting well due to old age. Hence, he could not contact his Advocate. After the demise of his father in the year 1996, his mother was ill due to paralysis between 1997 to 2012. She expired due to brain hemorrhage in 2012. It is stated that the certified copies were applied and obtained on 10.10.2016 and thereafter, after taking necessary instructions from his local Advocate, the Advocate at Aurangabad was engaged. Thereafter, the Advocate on record had consumed some time to prepare the matter. It is stated that there is delay of 20 years and 11 months. The delay is unintentional. His vital rights are involved and therefore, he prayed for condonation of delay.

3 Heard learned Advocate Mr. A.S. Savale for the applicant and learned AGP Mr. Y.G. Gujrathi for respondent No.1. It will not be out of

place to mention here that as per the order of this Court dated 10.10.2018, the application stood dismissed as against respondent No.2. Though respondent No.3 is served nobody appeared for the Bank. Both the parties have submitted arguments in their respective contentions.

4 It is to be noted that there is huge inordinate delay. As regards the medical reason of the father and mother of the applicant is concerned, documents are not produced. Even if for the sake of argument we give leniency, yet there is absolutely no reason for the period between 2012 to 2016. Under such circumstance, there is no merit in the application. When reasonable and sufficient ground has not been shown, the delay cannot be condoned. When the applicant has kept silence between 2012 to 2016, it cannot be said that he was diligent about his rights. Hence, application is rejected. Pending application also stands disposed of.

(Smt. Vibha Kankanwadi, J.)

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