

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

915 CIVIL APPLICATION NO.2560 OF 2019
IN SAST/33058/2018

Baburao Dattarao Bhalerao & ors.

VERSUS

The State of Maharashtra & ors.

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Advocate for Applicants : Bodke Patil Poonam V.

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CORAM : SMT. VIBHA KANKANWADI,J.

DATE : 12th FEBRUARY, 2019

PER COURT :

1 Present application has been filed by the original plaintiffs for condonation of delay in filing Second Appeal. The applicants intend to challenge the Judgment and Decree passed by District Judge-1, Basmatnagar on 09.04.2018 in Regular Civil Appeal No.18/2015. In the said appeal the Judgment and Decree passed in Regular Civil Suit No.174/2009 by Civil Judge Senior Division, Basmatnagar dated 26.02.2015 was challenged. As regards respondent Nos.1 and 2 are concerned, learned AGP waives notice. As regards respondent No.3 is concerned, it appears that since what was challenged, was the acquisition proceedings in the suit as well as in the appeal. Under such circumstance, respondent No.3 was a formal party.

2 As regards delay, that has been stated to have been caused of 108 days, it is stated that applicant No.1 is general Power of Attorney of

appellant Nos.2 and 3. It is stated that applicant No.1 is a heart patient since 2009 and is under treatment, he could not get time to obtain requisite documents in order to prefer appeal.

3 Heard learned Advocate appearing for the applicants and learned AGP. The application is strongly objected by respondent Nos.1 and 2 stating that each and every days delay has not been explained. Further, even if it is stated that applicant No.1 was suffering certain diseases, there is no explanation for applicant Nos.2 and 3.

4 It is to be noted that as regards the illness of the applicant No.1 is concerned, documents have been produced, it shows that he is a heart patient. He was the general Power of Attorney for applicant Nos.2 and 3 and therefore, applicant Nos.2 and 3 said to be justified in relying upon the applicant No.1 and therefore, whatever reason has been shown as regards applicant No.1, can be taken as reasonable and sufficient to condone the delay, by taking liberal approach. Hence, following order.

ORDER

- 1 Application is allowed.
- 2 Delay is hereby condoned.
- 3 The Second Appeal be verified and numbered and place for consideration on 01.04.2019.

(Smt. Vibha Kankanwadi, J.)