

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

**CIVIL APPLICATION NO.16192/2016 IN/WITH
REVIEW APPLICATION (CIVIL) NO.79 OF 2017
IN SA/491/2012**

**BHIMRAO VITTHAL PATIL AND OTHERS
VERSUS
BHAGWAN GOVINDA PATIL, DIED THR. L.RS. RAMRAO
AND OTHERS**

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Mr.D.R. Bhadekar & Mr.R.R. Suryawanshi, Advocates
for applicants.

Ms.A.S. Jadhav h/f Mr.P.R. Katneshwarkar,
Advocate for respondent nos.1 to 7.

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CORAM: V.L. ACHLIYA, J.

DATE : 26.08.2019

ORAL ORDER:

The applicants have moved this application seeking condonation of 1390 days delay in filing the review application for the reasons set out in detail in the application.

2. Heard learned counsel for the applicants and the respondents.

3. In brief, it is the contention of learned counsel for the applicants that the delay caused in filing the review application was not deliberate and intentional. As

against the order of dismissal of appeal, the applicants have preferred Special Leave to Appeal before the Apex Court. The same was withdrawn with liberty to file review application before this Court. The Hon'ble Apex Court granted liberty as prayed for. In this background, learned counsel for the applicants submits that the delay caused cannot be treated as deliberate.

4. On the other hand, learned counsel for the respondents opposed the application with contention that the reasons assigned cannot be termed as sufficient cause to condone the delay of 1390 days in filing review application. It is submitted that the appeal was dismissed after considering overall facts of the case and submissions advanced at length.

5. Having regard to overall facts of the case and the cause assigned, I am of the view that the delay deserves to be condoned. It is an admitted position that as against the order dated 16th January, 2013 passed by this Court, the applicants have preferred the Special Leave to Appeal before the Apex Court

and the same was withdrawn with liberty to file review application before this Court. The order in the matter granting liberty to file review application was passed on 2nd May, 2016. Thereafter, the present application is filed. Thus delay caused in filing review application has been explained. Thus in the facts and circumstances of the case, I am inclined to allow the application in terms of prayer clauses "A" and "B", subject to costs of Rs.10,000/- to be payable by the applicants to the respondents. Accordingly, the same is allowed. In case the cost amount is deposited, the respondents will be at liberty to withdraw the same. On deposit of costs, the review application be registered. Ms.A.S. Jadhav holding for Mr.P.R. Katneshwarkar, learned counsel for respondent waives service of notice of application seeking review of order.

6. List the review application for hearing on 6th September, 2019.

7. Parties are directed to maintain status-quo in respect of the suit property till 6th September, 2019.

8. The application is disposed of in
above terms.

[V.L. ACHLIYA]
JUDGE

SGA