

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

**950 CIVIL APPLICATION NO.1987 OF 2019
IN SA/392/1994**

**SOW KALAWATIBAI LAXMAN THOTE AND OTHERS
VERSUS
SOW. SUDHABAI VINAYAKRAO BORGAONKAR AND OTHERS**

...
Advocate for Applicants : Mr. N.G. Kale
Advocate for Respondent Nos.9, 10, 13 & 14 : Ms. Neha Kamble
h/f Mr. S.V. Adwant
...

CORAM : V.L. ACHLIYA, J.

DATED : 29th NOVEMBER, 2019

PER COURT:-

. This application is filed for recall of order dated 03.04.2013 passed by the Registrar (Judicial) dismissing the appeal as against respondents no.8, 10 and 11 in default for not furnishing the correct address.

2. Learned counsel for the applicants – appellants submits that the appeal was admitted on 23.11.1994. After admission of appeal, the applicants – appellants were not in contact with the advocate. So also, the advocate representing them has not communicated anything about the returned of notices of respondent nos.8, 10 and 11 for want of correct address. Due to fault on the part of their advocate for not taking steps, the impugned order dated 03.04.2016 came to be passed. Immediately, after knowing the dismissal of appeal against the said respondents, the applicants – appellants have moved this application along with application seeking condonation of 2060

days delay in filing the application. It is submitted that the delay caused in filing the application is not deliberate and intentional, but occurred for the reasons beyond the control of the applicants – appellants.

3. Learned counsel for the respondents no.9, 10, 13 and 14 opposed the application with contention that the cause assigned in the application is not sufficient to condone the delay of 2060 days.

4. On due consideration of submissions advanced in the light of cause assigned, I am of the view that delay deserves to be condoned and the order of dismissal of appeal deserves to be recalled. Once the appeal is admitted, the parties are not expected to in regular contact with the advocate. In that view, the application moved after knowing the order passed in the matter can be accepted as sufficient cause to condone the delay. In that view, the application deserves to be allowed in terms of prayer clauses 'B' and 'C'. The delay caused in filed the application is condoned. The order dated 03.04.2013 passed by the Registrar (Judicial) is set aside.

5. The learned counsel appearing for the respondent nos.9,10, 13 and 14 in the application waives service of notice of appeal.

6. Civil application is disposed of in above terms.

(V.L. ACHLIYA)
JUDGE