

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

913 CIVIL APPLICATION NO.2533 OF 2019
IN SAST/37030/2018

BHAGWAN VISHWANATHRAO KALE
VERSUS
GIRISHANKAR BAPURAO SHINDE

...
Advocate for Applicant : Mr. Chavan Sudhir K.
Advocate for Respondent : Mr. Biradar R.D.
...

CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 28-03-2019.

ORAL ORDER :

1. Present application has been filed for getting the delay of 60 days condoned in filing second appeal.
2. The applicant is the original plaintiff who had filed Regular Civil Suit No.09 of 2012 (Old Special Civil Suit No.17 of 2008) for recovery of amount. The suit was dismissed. It also appears that, the defendant had preferred counter claim. It was also dismissed. Thereafter, both the parties filed appeal i.e. Regular Civil Appeal No.102 of 2014 and Regular Civil Appeal No.06 of 2014 respectively. By common Judgment, the learned District Judge- 1, Parbhani has dismissed both the appeals, and therefore, now the original plaintiff intends to file second appeal, however there is delay of 60 days.
3. The applicant contends that, he is an agriculturist. Due to the drought situation, he could not arrange expenses for the litigation. Ultimately he borrowed the amount and then approach the advocate at

Aurangabad, and therefore, the delay that has been caused is unintentional.

4. The learned advocate appearing for the respondent strongly objected the application contending that, the reason that has been given is false, and no reasonable and sufficient ground has been shown to explain the delay of 60 days.

5. Taking into consideration the fact that, what is not in dispute is that the plaintiff - applicant is the agriculturist. He is coming from a rural background. Further both the learned Courts agreed that, there was continuous drought situation in Parbhani area, and therefore, taking liberal view, case is made out to condone the delay. Hence, the application is allowed. Delay is condoned. Registry to verify and number the second appeal and place it for consideration on 03rd June, 2019. Application is disposed of accordingly.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-.