

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 931 OF 2019

IN

FIRST APPEAL (ST) NO. 21604 OF 2017

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
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Mr. Sagar Joshi for the Applicant.

Ms. Sapna Krishnappa I/b Suresh Dubey for the Respondent Nos. 1 to 5.

CORAM: K.K.TATED, J.

DATED : 16.09.2019

P.C.

1 Not on board. At the request of Advocate for the applicant, matter is taken on production board for urgent orders.

2 Heard learned Counsel for the parties.

3 By this Civil Application, the Applicant is seeking condonation of 64 days delay in challenging the judgment and decree dated 30.03.2017 passed by the Bombay City Civil Court at Bombay in S.C. Suit No. 7030 of 2005 holding that Respondent original Plaintiff is entitled to 1/7th share in the suit property more particularly described and mentioned in Exh. 'C' to the plaint.

4 The learned counsel for the Respondent Nos. 1 to 5 vehemently opposed the present

Civil Application. She submits that Applicant has failed and neglected to show sufficient cause for condonation of delay. She submits that Respondent filed execution application in which executing court permitted the commissioner to inspect the suit premises and take measurement.

5 At this stage, the The learned counsel for the applicant submits that they have no objection if the Commissioner attend the suit premises on 26.09.2019 and take inspection. To that effect, he has given in writing. Same is taken on record and marked "X" for identification. Same is accepted.

6 Considering the submissions made by the learned counsel for the Applicant and the averments made in Civil Application, I am satisfied that the Applicant has made out a case for allowing the Civil Application. Hence, following order is passed:

- a) Delay in filing First Appeal is condoned.
- b) Civil Application stands disposed of accordingly.
- c) Undertaking given by the Applicant in writing to continue.
- d) No order as to costs.

(K.K.TATED, J.)