

vai

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 78 OF 2018  
ALONG WITH  
CIVIL APPLICATION NO. 79 OF 2018  
IN  
SECOND APPEAL (ST.) NO. 17251 OF 2017

Vijay Kanhaiyalal Oswal

...Applicant/  
Appellant

V/s.

Prakash Atmaram Surve & Ors.

...Respondents

Mr. Anoop Sharma a/w Mr. S.M. Kazi, Advocates for the Applicant.  
Ms. Vaishnavi M. Gujarathi a/w Mr. U.P. Warunjikar, Advocates for  
the Respondent Nos. 1 to 3.

**CORAM : R.D. DHANUKA, J.**  
**DATE : 11TH SEPTEMBER, 2019.**

**P.C. :-**

1. By this Civil Application No.78 of 2018, the applicant seeks condonation of delay of 236 days in filing the second appeal. Learned counsel appearing for the applicant invited my attention to the averments made in paragraphs 10 of the civil application. Learned counsel for the respondents invited my attention to the averments made in the affidavit in reply filed by their clients and would submit that the financial condition of their clients is sound and is one of the reachest person in the society.

2. Learned counsel appearing for the applicant states that the applicant has good chances to succeed and this Court may pass

an order by imposing reasonable amount of costs upon the applicant for condonation of delay. Learned counsel for the respondents has prayed for costs of Rs.10,000/-. The reasons recorded by the applicant are not fully satisfactory however on payment of costs of Rs.10,000/- to be paid within two weeks from today, the civil application is made absolute in terms of prayer clause (a). It is made clear that if the amount of costs is not paid within the time prescribed, the order passed by this Court condoning the delay of 236 days in filing the second appeal to stand vacated and the Second Appeal (Stamp) No.17251 of 2017 to stand dismissed in that event. If the amount is paid within the time prescribed, the proof of payment of costs shall be produced before the Sheristedar of this Court within one week from the date of making payment.

3. Place the second appeal on board for admission as per C.M.I.S. date upon the applicant paying the costs of Rs.10,000/-.

***(R.D. DHANUKA, J.)***