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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

***CIVIL APPLICATION NO. 471 OF 2016
IN
SECOND APPEAL (ST.) NO. 21378 OF 2015***

Macchindra Nivrutti Kakade and Ors. ... Applicants/Appellants

V/s.

Madhukar Nivrutti Kakade and Ors. ... Respondents.

Mr. Anant Vadgaonkar for the Applicant/Appellant.

Mr. R.S. Alange for Respondents 1 and 3.

CORAM : N.M. Jamdar, J.

DATE : 26 July, 2019.

P.C. :-

Heard learned Counsel for the Applicant. The Application is filed for condonation of delay of 2 years and 14 days in filing the Second Appeal.

2. The Second Appeal arises from a suit for partition filed by the Appellant. The Trial Court had dismissed the Suit on the ground of non-joinder of the property. However, holding that the suit property is a joint property, the Appellate Court has reversed the

finding recording the property being joint family property. However, dismissed the Appeal on other grounds.

3. In the Application it is stated that there was a delay in filing the Appeal in view of the medical problems so also monetary issues in view of the drought situation in the area. The reply is to be filed and it is contended that there was no such reason of illness is not believable. To consider the rival contentions a medical certificate has been annexed to the application.

4. Considering the totality of the circumstances, I am of the opinion that the equities can be balanced by allowing the application subject to imposition of cost.

5. Accordingly, the Civil Application is allowed in terms of prayer clause (a), subject to the Applicant paying cost of Rs.1,000/- (each) to all the Respondents within period of four weeks from today.

(N.M. Jamdar, J.)