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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1182 OF 2019
IN
SECOND APPEAL (STAMP) NO.8718 OF 2019

Ashok M. Gophne & Ors.	...Applicants
V/s.	
Ulhas B. Kawade & Ors.	...Respondents

Mr.Abhishek S. Matkar for the Applicants.

Mr.Mukund T. Pise for the Respondents.

CORAM : R.D. DHANUKA, J.
DATE : 30TH SEPTEMBER, 2019.

P.C. :-

1. By this civil application, the applicants seek condonation of delay of one year and 161 days in filing the second appeal. The respondents have filed affidavit in reply and have raised an issue that in view of amendment to section 9-A of the Code of Civil Procedure, 1908 , by the Ordinance dated 27th June, 2018, the remedy of the applicants would be under the Town Planning Act and not under section 100 of the Code of Civil Procedure, 1908. In my view, the objection raised by the respondents relying upon the Ordinance dated 27th June, 2018 is in respect of the remedy of the applicants is totally frivolous and contrary to the Ordinance dated 27th June, 2018. No other objections are raised before this Court while opposing the application for condonation of delay.

2. I have perused the averments made in the civil applicant and more particularly in paragraphs 5 to 9 of the civil application. The applicants have made out a case for condonation of delay as prayed.

2. The civil application is made absolute in terms of prayer clause (a). There shall be no order as to costs.

3. Place the second appeal on board for admission on 11th November, 2019.

(R.D. DHANUKA, J.)