

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

CIVIL APPLICATION NO.816 OF 2018
IN
SECOND APPEAL (ST) NO.25085 OF 2017

Shivaji Nathu Kadu ... Applicant
Vs
Balasaheb Vithoba Pasalkar ... Respondent
...

Mr. Ayodhya Patki I/by Nitesh V. Bhutekar for the Applicant.
None for respondent.

CORAM : SANDEEP K. SHINDE J.
DATE : APRIL 11, 2019

P.C. :

Heard learned counsel for the applicant. Even on second call, respondent is absent.

2 It is an application for condonation of delay of 106 days caused in preferring the Second Appeal against the judgment and decree dated 20th February, 2017 passed in Regular Civil Appeal No.3 of 2013 by the learned District Judge, Baramati, District Pune.

3 Applicant's suit for perpetual injunction was decreed by the learned Civil Judge, Senior Division, Daund in March, 2012.

However, this decree has been set aside by the Appellate Court in Regular Civil Appeal No.3 of 2013. It is against the decree in the said Regular Civil Appeal, this appeal is preferred.

4 It is submitted that the applicant is Senior Citizen and was not well. It is pleaded in paragraphs 5 and 6 that though the papers were handed over to the advocate in Pune, he returned the paper due to his personal difficulty. Soon thereafter in August, 2017 papers were handed over to the advocate at Bombay for drafting the Second Appeal. It is also submitted that in between the period, applicant could not approach his lawyer for filing the Second Appeal, due to summer vacation. On these ground delay is sought to be condoned.

5 Though the grounds are not supported by treatment papers or documents of like nature and averments in the application, being not contradictory, delay is condoned. Accordingly, delay is condoned in the interest of justice. Accordingly, application is allowed in terms of prayer clause (a).

6 Appeal shall be listed for Admission as per the CMIS
date.

(SANDEEP K. SHINDE, J.)