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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

*CRIMINAL APPLICATION NO.462 OF 2018
(FOR DELAY)*

*WITH
CRIMINAL APPLICATION NO.1042 OF 2019*

Dilip Sadashiv Khandve ..Applicant.
V/s.
Kamal Dipsingh s/o.Gurbacchan Sing & Ors...Respondents.

Mr.Dilip Sadashiv Khandve - the applicant in person.

Mr.Priyal Sarda for respondent Nos.4, 5, 6 & 8.

Mr.Vinnay Kumar Bajpai for respondent No.8.

Mr.A.R.Kapadnis, APP for the respondent-State.

CORAM: NITIN W.SAMBRE, J.

DATE : NOVEMBER 8, 2019

P.C.:-

This is an application seeking condonation of delay of 14 years and 275 days in preferring an application under section 378(4) of the Code of Criminal Procedure for grant of leave.

2. It is the case of the present applicant that the respondents were acquitted by the Court of learned

Magistrate for offence under criminal trespass.

3. In support of prayer for condonation of 14 years and 275 days, the applicant, who is a lawyer by profession and appearing as a party in person, submits that suit for partition was decreed way back i.e. on January 31, 2008 against the concerned Respondent¹ and appeal is pending before the learned District Judge.

4. That being so, since the parties are litigating before the Civil Court, the delay caused in preferring the present application is *bona fide*.

5. The applicant then would urge that if required the parties may settle the dispute *inter se*.

6. The claim is opposed by the learned counsel for the respondents / non-applicant as according to them, the delay is not at all explained.

7. From the factual matrix, it appears that the parties are already litigating before the Civil Court in appeal.

8. Apart from above, only cause addressed in support of the prayer for condonation of delay is, pendency of the civil proceedings which the parties are already contesting.

9. The pendency of civil proceedings *inter se* between the parties cannot be considered to be a *bona fide* cause so as

¹ Corrected pursuant to the speaking to the minutes of the order dated 12/12/2019.

to order condonation of delay of more than 14 years. This Court needs to be sensitive to the fact that the party appearing in person is a lawyer and perhaps knows the intricacies of law and as such, his claim that if the parties are litigating in the Civil Court, therefore, the delay of 14 years and 275 days can be ordered to be condoned, cannot be accepted to mean that there is sufficient explanation.

10. It cannot be inferred to be *bona fide*. That being so, the application stands rejected and as a consequence leave stands refused.

11. As a consequences, all criminal applications also stand dismissed.

(NITIN W.SAMBRE, J.)