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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1664 OF 2016
IN
SECOND APPEAL NO.28318 OF 2016

Shivaji D. Mane	...Applicant
V/s.	
Mahesh S. Mane & Ors.	...Respondents

Ms.Vaishali Balasubramanian i/b Mr.S.P. Kadam for the Applicant.
Mr.Avinash Patil for the Respondent No.3.

CORAM : R.D. DHANUKA, J.
DATE : 20TH AUGUST, 2019.

P.C. :-

1. By this civil application, the applicant seeks condonation of delay of 348 days in filing the second appeal. With the assistance of the learned counsel for the parties, I have perused the averments made in the civil application. It is the case of the applicant that the applicant is an agriculturist. The advocate in the lower Court had advised that there was no relief granted in favour of the defendants to have the road from southern band of property at Gat No.1128. The applicant was told that the suit as well as the appeal of the respondent has been dismissed. It is the case of the applicant that when the applicant approached the land in question for preparation of new road, the applicant came to know that the advice given by the learned advocate in the lower Court to the applicant was incorrect.

2. The application for condonation of delay is vehemently opposed by the learned counsel for the respondent no.3 on the

ground that the delay is not sufficiently explained by the applicant. There was no such order passed in favour of the applicant by the lower Court as is alleged to have been informed by the learned advocate before the lower Court.

3. Learned counsel for the respondent no.3 did not dispute that the applicant is an agriculturist and is not having any sources to arrange the expenses for filing the proceedings expeditiously.

4. In my view, learned counsel for the applicant has made out a case for condonation of delay on payment of costs quantified at Rs.3,000/- to be paid to the Kirtikar Law Library which shall be paid within one week from today. The receipt of payment of costs shall be produced before the learned Sheristedar of this Court on the next date.

5. The applicant is directed to carry out amendment to the second appeal and the Civil Application No.24 of 2019 in compliance with the order dated 1st February, 2019 within one week from today and shall serve a copy of the amended second appeal upon the respondents' advocate within one week thereafter. It is made clear that no further extension of time would be granted.

6. Place the second appeal on board for admission as per C.M.I.S. date.

(R.D. DHANUKA, J.)