

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

CIVIL APPLICATION NO.190 OF 2016
IN
SECOND APPEAL (ST) NO.25749 OF 2015

Shri Tulshiram Govinda Pawar

... Applicant

Vs

Somibai W/o. Pandu Bhoje @
Smt. Somibai D/o. Govinda
Pawar and Anr.

... Respondents

...

Mr. Sanjay Prabhakar Shinde for the Applicant.

Ms. Nilima C. Sarvagod I/by Onkar Warange for the Respondent
No.1.

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

P.C. :

It is an application for condonation of delay of 256 days
occurred in filing appeal against the judgment and decree dated 5th
November, 2014 passed in Regular Civil Appeal No.63 of 2010.

2 Heard learned counsel for the applicant and the
respondent no.1.

3 The learned counsel for the applicant submits that the
respondent no.2 is formal party and he does not press appeal against

him. He seeks leave to delete respondent no.2 from the cause-title. Leave granted. Amendment to be carried out forthwith.

4 It is submitted that the applicant is 82 years old, illiterate and Adivasi. He has no sufficient funds for paying Court-fees and for engaging advocate. It is submitted that he was unwell and suffering from jaundice. He has placed on record certificate issued by Multi-Speciality Hospital. On this ground, condonation of delay is sought.

5 The learned counsel for the respondent no.1 submits that averments in the application show that the applicant has approached advocate in June, 2015. However, present application is filed in September, 2015 and nothing is stated as to why application was not filed soon after June, 2015.

6 This appeal is preferred by the Plaintiff. His suit for injunction and declaration of title was decreed. However, Appellate Court reversed the decree. So far as declaration of title is concerned, applicant is about 82 years, illiterate and Adivasi. Medical certificate shows that he was suffering from jaundice and was unable to walk and was advised to take complete rest for 4-6 months.

7 Thus, taking into consideration the averments made in the application, sufficient cause is shown for condoning the delay subject to cost of Rs.5,000/- which the applicant shall pay to the respondent through his advocate within two weeks from today.

8 Subject to payment of cost, application is allowed in terms of prayer clause (a).

Place this appeal for Admission on 26th June, 2019.

(SANDEEP K. SHINDE, J.)