

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

CIVIL APPLICATION NO.1912 OF 2015
IN
CIVIL APPLICATION NO.1879 OF 2007
IN
SECOND APPEAL (ST) NO.29389 OF 2007

Gulab Usman Mujawar and Ors. ... Applicants
Vs
Kashinath Masaji Khandekar
(Since deceased through
L.H.)
Smt. Krishnabai Kashinath
Khandekar & Ors. ... Respondents

WITH
CIVIL APPLICATION NO.1913 OF 2015
IN
CIVIL APPLICATION (ST) NO.1877 OF 2007
IN
SECOND APPEAL (ST) NO.29386 OF 2007

Yasin Rahiman Mujawar
(Since deceased through
L.H.)
Jahagir Yasin Mujawar
& Ors. ...Applicants
Vs
Kashinath Masaji Khandekar
Since deceased through legal
heirs
1A. Smt. Krishnabai Kashinath
Khandekar & Ors. ...Respondents.

...

Mr. P.M.Arjunwadkar for the Applicants.
Ms. Anjali Shiledar-Baxi for the Respondents.

CORAM : SANDEEP K. SHINDE J.
DATE : APRIL 9, 2019

P.C. :

Aforesaid Second Appeals were preferred against the Regular Civil Appeal Nos.273 of 1994 and 289 of 1994 which were decided by the common judgment and order dated 12th July, 2007.

2 That since both the appeals were not filed within limitation, two applications were filed seeking condonation of delay.

3 On 9th January, 2008, rule was issued in the applications and applicants were permitted to serve respondents by private service and were directed to file affidavit of service before the returnable date. It was self-operative order and due to its non-compliance, appeals were dismissed in April, 2008.

4 Thus, two Civil Application Nos.1879 of 2007 and

1877 of 2007 are filed seeking condonation of 7 years and 279 days delay.

5 Heard learned counsel for the parties.

6 In paragraph 4 of the applications, it is stated that on account of communication gap between the applicants and the then advocate for the applicants, they could not serve the respondent before the returnable date and as such, non-compliance of the order dated 9th January, 2008 was neither intentional nor deliberate. Second ground is that the applicants were not acquainted with the order dated 9th January, 2008. Obviously, second ground is contrary to the first ground and therefore, both the grounds are not tenable. Third ground is that, one of the applicants Mr. Yasin Mujawar was serious and bed-ridden who was looking after entire affairs of the Court and therefore conditions could not be complied with. Even third ground is not acceptable for the reason that there are eight applicants (Appellants) who have preferred this appeal.

7 Thus, taking into consideration grounds put forth
for seeking condonation of delay of more than seven years do
not disclose sufficient cause for condoning the delay.

8 Applications are dismissed with no order as to
costs.

(SANDEEP K. SHINDE, J.)