

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

939 CIVIL APPLICATION NO.8438 OF 2019
IN SAST/2253/2019

BABU SAVLA GAIKWAD THROUGH LRS RADHABAI AND OTHERS
VERSUS
SOMNATH BABASAHEB JARE AND OTHERS

Mr. Y. V. Kakde, Advocate for the applicants
Mr. V. V. Wagh, Advocate for respondent Nos. 1 and 3.

CORAM : S. M. GAVHANE, J.
DATED : 17.01.2020

PER COURT :-

. Learned counsel appearing for the applicants submitted that he will file pursis that the respondent Nos. 1 and 3 are the only LR's of the deceased respondent No. 2.

2. Applicants/original defendants who have filed second appeal aggrieved by the judgment and order of the appellate Court in R.C.A. No. 32 of 2014 have filed this application to condone delay of 74 days caused in filing the second appeal.

3. Mr. Kakde, learned counsel appearing for the applicants referring to the grounds mentioned in paragraph No. 6 of the application submitted that after receipt of the copy of judgment and order of the

appellate Court applicants approached the advocate for filing second appeal, but as they had no knowledge in respect of Court proceedings, they had no copies of judgment and decree of the trial Court and to obtain these copies, they had applied and said copies were received on 31st December, 2018 and therefore, delay has been caused. It is submitted that delay caused is unintentional and not deliberate and therefore, the same may be condoned, as valuable right of the applicants are involved in the property in the dispute, by allowing the application.

4. Learned counsel appearing for respondent Nos. 1 and 3 opposed to grant the application on the grounds that applicants have not shown sufficient cause to condone the delay and therefore, request made by the applicants may not be considered.

5. Considering the submissions made by the learned counsel appearing for the applicants, the grounds mentioned in paragraph No. 6 of the application and the fact that as per contention of the applicants valuable rights of the applicants are involved in the suit

property, it is just to condone the delay to decide the matter on merits. Therefore, delay caused in filing the second appeal is condoned.

6. Application is accordingly allowed in terms of prayer clause (B).

7. Appeal be registered and the same may be placed for admission on 03/03/2020.

[S. M. GAVHANE, J.]