

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

941 CIVIL APPLICATION NO.13779 OF 2019
IN SAST/29406/2019 WITH CA/13780/2019 IN SAST/29406/2019

SOJARBAI DNYANOBA GAVTE
VERSUS
MAHADEO SOPAN SABLE AND OTHERS

Mr.H.V. Tungar, Advocate for the applicant.

CORAM : S.M.GAVHANE, J.
DATED : 24.01.2020

P.C. :-

. The applicant/original plaintiff has filed this application to condone delay of 565 days caused in filing appeal aggrieved by decision in Regular Civil Appeal No.66 of 2013 dated 20.11.2017 thereby confirming partly decree passed by 3rd Jt. CJJD, Beed, in Regular Civil Suit No.326 of 2007 on 01.04.2013.

2. Learned Counsel appearing for the applicant submitted that the applicant is widow and she is old lady. She resides separately from her sons. She suffers from Cancer. She is required to painful treatment as and when required. She has no other source of income. Therefore, it was difficult for her to collect the amount towards the expenses likely to be incurred for filing the Second Appeal. It is further submitted that she does

labour work and after she received certified copies of judgment and order in Appeal, she filed the Second Appeal. However, delay has been caused in filing the appeal which is not deliberate.

3. Learned counsel for the applicant also submitted that the applicant had filed suit for partition and separate possession of immovable properties, but her request for partition and separate possession of her share in block No. 91 and block No. 163 was rejected by the Trial Court and therefore she filed appeal but the Appellate Court dismissed the appeal and thus though she has share in all the properties, the Trial Court as well as the Appellate Court have refused share to her in aforesaid two properties. Thus, it is submitted that as the delay caused is unintentional, there is sufficient ground to condone the said delay and the same may be condoned.

4. The respondents are served with notice, but they have not appeared.

5. Considering the submissions of learned Counsel appearing for the applicant and the grounds which are given in paragraph Nos.5 and 6 of the application, I find that the applicant has shown sufficient cause to condone

delay caused in filing the appeal and therefore same is to be condoned by allowing the application, to meet the ends of justice. Therefore, the application is allowed in terms of prayer clause (B) and delay is condoned.

6. The appeal be registered. Place the appeal for further consideration/admission on 04.03.2020.

[S.M.GAVHANE, J.]