

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.1209 OF 2018
IN
SECOND APPEAL (ST) NO.4836 OF 2018
ALONGWITH
CIVIL APPLICATION NO.1210 OF 2018
IN
SECOND APPEAL (ST) NO.4836 OF 2018**

Shri Gautam Ganpat Sutar

(Since deceased through His Legal Heirs)

a) Shri Rajkumar Gautam Sutar and Ors.Applicants.
(Original Defendant No.1)

Versus

Sharada w/o Shankar Sutar and Others Respondents

Mr. Prabhakar Jadhav for the Applicants.

Mr. Prasad Kulkarni for Respondent No.1.

Mr. Veerdhawal P. Kakade for Respondent Nos.3A to 3E.

CORAM: NITIN W. SAMBRE, J.

DATE: FEBRUARY 10, 2020

P.C.:-

1] Original Applicant Gautam Ganpat Sutar has expired on 14th June, 2017, who was Defendant to the suit for partition. As such this application by his legal heirs.

2] There is delay of about four years, so also application for leave to

file Second Appeal is moved.

3] The ground in support of condonation of delay is, deceased Gautam was not keeping good health and proposed legal heirs of Appellant were not in know-how of the decree for partition.

4] Prayer for condonation of delay and leave to file appeal is opposed by learned Counsel for the original Plaintiffs, as according to him delay is not explained with sufficient cause.

5] However, for the reasons disclosed in the Applications and right to appeal being statutory right, it will be appropriate to order condonation of delay.

6] Leave to file appeal through proposed Legal Heirs of Appellant is granted.

7] Both these applications are allowed and disposed of.

(NITIN W. SAMBRE, J.)