

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

CIVIL APPLICATION NO. 1487 OF 2018

IN

SECOND APPEAL STAMP NO.10238 OF 2018

(Anil Digambar Shejole ..vs.. Mahadeo Sundaji Bhamadre and another)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri M.V. Amale, Counsel for the appellant,
Shri A.V. Bhide, Counsel for the respondents.

CORAM : M.G. GIRATKAR, J.

DATED : 04-01-2020

Heard Shri M.V. Amale, learned Counsel for the applicant-appellant. He has submitted that the appellant has received certified copy of the judgment on 18-10-2016. Thereafter though he wanted to file appeal against the impugned judgment, he could not do the same because his mother is very old and was suffering from illness. Ultimately, the mother of the appellant had to undergo surgery in the month of June 2017. Except the present appellant there was no one to look after the mother. The delay of 472 days is caused in filing the appeal. Learned Counsel has submitted that the delay is *bona fide* and prays to condone the delay.

2. The application is strongly opposed by the learned Counsel for the respondents. He has submitted that the appellant has two sons. They could have taken care of mother of the appellant. The appellant could have filed appeal within limitation. But he intentionally

not filed the appeal. The delay is intentional and not *bona fide*. Therefore, the application is liable to be rejected.

3. As per the submission of learned Counsel for the appellant, the appellant is a purchaser. His suit came to be dismissed. The appeal filed by the appellant is also dismissed by the first appellate Court. Learned Counsel has submitted that he has a good case on merits and therefore, prays to condone the delay.

4. In view of the judgment of the Hon'ble Apex Court in the case of *Collector, Land Acquisition, Anantnag and Another vs. Mst. Katiji and Others* reported in (1987)2 SCC 107, the delay is to be condoned.

5. Looking to the grounds, the application is allowed. Delay is condoned. Appeal be registered.

Second Appeal (Stamp) No.10238/2018

Issue notice for final disposal at the admission stage, returnable on 20-1-2020.

2. Shri A.V. Bhide, learned Counsel waives notice for the respondents.

JUDGE