

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

**7 CIVIL APPLICATION NO.2788 OF 2017
IN SAST/4079/2017**

YOGESH S/O NAVNATH MHETRE
VERSUS

1. BHIMA S/O VITHOBA MHETRE and OTHERS

...
Advocate for Applicant : Mr. Ingale Vivekanand V.
Advocate for Respondents No.1A to 1D: Mr. M. P. Tripathi

...
CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 29-11-2021.

ORDER :

1. Present application has been filed for getting the delay of 211 days condoned in filing second appeal.
2. The present applicant is the original plaintiff who had filed suit for permanent injunction. The said suit came to be decreed by learned Civil Judge, Junior Division, Tuljapur District Osmanabad, on 28-03-2013. Original defendant No.1 filed Regular Civil Appeal No.178 of 2013 before learned Principal District Judge, Osmanabad. The appeal came to be allowed on 12-04-2016 and the Judgment and decree passed by the learned Trial Judge was set aside by dismissing the suit. The original plaintiff want to challenge the said decree, however, there is delay of 211 of days.
3. Heard learned Advocate Mr. Ingale Vivekanand V. for applicant and learned Advocate Mr. M. P. Tripathi for Respondents No.1A to 1D.
4. It has been contended by the applicant that he was minor when

the suit was filed and it was through his next friend. Now he has attended the majority and he is aged 20. He submits that he is an agriculturist as well as a student. There were financial crises for him, so also the fact that he could not contact the Advocate due to communication gap.

5. Learned Advocate for respondents No.1A to 1D strongly opposes the application on the ground that the reasons mentioned are not sufficient to condone the delay.

6. It is to be noted that when the suit was filed, the present applicant was eight year old and now when the application was filed in 2017, he was 20 years old person. He is claiming rights over immovable property and the Trial Court had held it in his favour whereas the First Appellate Court has reversed that finding. Taking into consideration the fact that the applicant is very young, coming from rural area and also a student, leniency is shown to him. The delay stands condoned. Application stands allowed and disposed of.

7. Registry to verify and register the second appeal.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-