

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

939 CIVIL APPLICATION NO.9274 OF 2018
IN SAST/4801/2018

BHASKAR SUKHDEO NAIBAL AND OTHERS
VERSUS
RAMRAO GYANBA NAIBAL

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Advocate for Applicants : Mr. More P. P.
Advocate for Respondent : Mr. Vivek Bhavthankar

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 27th January, 2021

ORDER :

. Present application has been filed for condonation of 257 days delay in filing Second Appeal. The applicants are the original defendants. Present respondent has filed Regular Civil Suit No.11 of 2007 before the Joint Civil Judge, Junior Division, Majalgaon, District Beed for perpetual injunction. It came to be decreed on 25-09-2008. The present applicants preferred appeal bearing Regular Civil Appeal No.28 of 2010 before the District Judge-1, Majalgaon, which came to be dismissed on 02-03-2017. Now, they want to file the Second Appeal, however, there is delay of 257 days.

2. Heard both sides.

3. Learned Advocate for the respondent strongly opposed the

application stating that absolutely no reasonable ground has been shown by the applicants – appellants to condone the delay.

4. It is to be noted that the applicants – appellants appear to be illiterate persons as well as agriculturist from a rural area. They have stated that they do not have legal and procedural knowledge. Further, they have also stated that due to their weak financial position, they could not have arranged funds to challenge the said decree in appeal. Therefore, there appears to be a reason for the delay that has been given. Liberal approach is required to be taken. Further, the inconvenience, if any, that has been caused to the respondent can be compensated in terms of money and, therefore, application deserves to be allowed. Accordingly, it is allowed.

5. The delay caused in filing Second Appeal is hereby condoned, subject to deposit of cost of Rs.5,000/- within a period of 15 days from the date of this order in this Court.

6. After the amount is deposited, registry to verify and register the Second Appeal.

7. Respondent is thereafter permitted to withdraw the said amount of cost without further reference to the Court.

[SMT. VIBHA KANKANWADI, J.]

scm