

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

926 CIVIL APPLICATION NO.3418 OF 2019  
IN SAST/6048/2019

DATTATRAYA BHAGWAT MALI

VERSUS

BHAGWAT DNYANOBA MALI DIED AND OTHERS

...

Mr. M.U. Shelke, Advocate for the applicant

Mr. A.P. Deshmukh, Advocate for respondent No.2

Mr. A.S. Kulkarni, Advocate for respondent No.4

...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 11<sup>th</sup> FEBRUARY, 2021.

**PER COURT :**

1 Present application has been filed for getting delay of 71 days condoned in filing Second Appeal. Present applicant is the original plaintiff, who had filed Regular Civil Suit No.302/2008 for perpetual injunction. Said suit came to be dismissed by learned 2<sup>nd</sup> Joint Civil Judge Junior Division, Kallam, Dist. Osmanabad on 29.02.2016. He preferred Regular Civil Appeal No.59/2016 before learned District Judge-1, Osmanabad. The said appeal came to be dismissed on 20.08.2018. He wants to challenge the said Judgment and Decree, however, as aforesaid, there is delay of 71 days.

2 Learned Advocates appearing for the respondent No.2 as well as

respondent No.4 strongly oppose the application and submit that no reasonable and proper ground has been shown for condoning the delay.

3           It is not in dispute that the applicant as well as respondents are agriculturists and they are coming from rural area. The applicant is accepting that there was no communication between him and his Advocate, and therefore, he states that he had no knowledge about the Judgment and Decree. Then he says that some time is spent to collect the necessary documents and to take advise from the counsel. Taking liberal view the delay deserves to be condoned.

4           Application stands allowed and disposed of.

5           The delay caused in filing Second Appeal is hereby condoned, subject to deposit of costs of Rs.10,000/- (Rupees Ten Thousand only), within a period of 15 days from today, in this Court.

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

7           The respondents are allowed to withdraw the said amount.

**( Smt. Vibha Kankanwadi, J. )**