

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

929 CIVIL APPLICATION NO.10368 OF 2019
IN SAST/6527/2019

DATTA VISHNU SHIKHARE
VERSUS
VIJAY RAMCHANDRA GAJMAL AND ANOTHER

...
Advocate for Applicant : Mr. Biradar R.D.
Advocate for Respondent No.1 : Mr.Bhavthankar Vivek
...

CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 10-02-2021.

PER COURT :

1. Present application has been filed for condonation of delay of 71 days caused in filing second appeal.
2. The applicant is original plaintiff who had filed Regular Civil Suit No.94 of 2010 before Civil Judge, Junior Division, Selu District Parbhani for declaration. That came to be dismissed on 03-05-2014. Thereafter, it appears that he challenged the said Judgment and decree in Regular Civil Appeal No.66 of 2015 before learned Principal District Judge, Parbhani. The appeal came to be dismissed on 14-09-2018. Now he want to file second appeal, however there is delay of 71 days.
3. The applicant submits that some delay was caused by him in applying for the certified copies but, thereafter, he lost those copies along with other papers. He again applied for the certified copies and

thereby the delay has been caused.

4. Learned Advocate Mr. Bhavthankar appearing for the respondent No.1 strongly opposed the application. He submits that no good ground has been shown for condoning the delay much less it is sufficient.

5. The plaintiff / applicant intends to canvas certain vital rights which according to him he possess. As regards the delay is concerned, he says that he applied earlier but lost the certified copies and then he took time. This can be considered as a reasonable ground by taking liberal view.

6. The inconvenience caused to the respondents can be compensated in terms of money and, therefore, the present application deserves to be allowed. Hence following order.

ORDER

1) The application stands allowed and disposed of subject to deposit of cost of Rs.5000/- (five thousand) by the appellant in this Court on or before 03-03-2021.

2) After the amount is deposited, Registry to verify and register the second appeal. Thereafter the amount be disbursed to the respondent No.1 who is contesting.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-