

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

925 CIVIL APPLICATION NO.4048 OF 2017
IN SAST/6787/2017

BHAUSAHEB SUKHDEV SHEJWAL
VERSUS
ANIKITABAI RATAN SHEJWAL

...

Mr. M.B. Ubale, Advocate for the applicant
Mr. M.P. Joshi, Advocate for the sole respondent

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 11th FEBRUARY, 2021.

PER COURT :

1 Present application has been filed for getting delay of 60 days condoned in filing Second Appeal. Present applicant is the original plaintiff, who had filed Regular Civil Suit No.256/2009 for perpetual injunction. Said suit came to be dismissed by learned Joint Civil Judge Junior Division, Gangapur, Dist. Aurangabad on 30.07.2012. He preferred Regular Civil Appeal No.217/2012 before learned District Judge-1, Vaijapur. The said appeal came to be dismissed on 14.09.2016. He wants to challenge the said Judgment and Decree, however, as aforesaid, there is delay of 60 days.

2 Learned Advocate appearing for the respondent strongly opposes the application and submits that though the applicant contends that he was suffering from Jaundice, he has not produced any medical certificate. In fact,

for no communication between him and his Advocate the applicant will have to be blamed, and therefore, no reasonable and proper ground has been shown for condoning the delay.

3 It is not in dispute that the applicant as well as respondent 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 he was suffering from Jaundice, for which he had taken Ayurvedic treatment. 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.5,000/-, 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 respondent is allowed to withdraw the said amount.

(Smt. Vibha Kankanwadi, J.)