

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

**914 CIVIL APPLICATION NO.4722 OF 2020
IN SAST/7560/2019**

SOJARBAI SHESHRAO BHANDE AND ANOTHER
VERSUS
LAXMAN SHESHERAO BHANDE AND OTHERS

...
Advocate for Applicants : Mr. S.B.Munde h/f Mr. Gunale V. D.
Advocate for Respondent No.1: Mr. B. R. Kedar
...

CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 27-10-2021.

ORDER :

1. Present application has been filed for condoning the delay of 233 days in filing the second appeal.
2. The applicants are the original defendants No.3 and 4. Present respondent No.1 is the original plaintiff who had filed Regular Civil Suit No.26 of 2007 before Joint Civil Judge, Junior Division, Chakur, District Latur, for perpetual injunction. The said suit came to be decreed on 01-11-2012. The present applicant filed Regular Civil Appeal No.423 of 2012. Learned Ad-hoc District Judge-1, Latur dismissed the appeal on 16-04-2018. The applicants, therefore, want to file second appeal, however, there is delay. Hence, this application.

3. Heard learned Advocate Mr. V. D. Gunale for applicants and learned Advocate Mr. B. R. Kedar for respondent No.1.

4. It has been contended that applicant No.1 was suffering from various diseases. She has no source of income. She is dependent on applicant No.2 who is stated to be the house-wife. It is to be noted that applicant No.1 has annexed her medical certificate stating that she was under treatment from 15-07-2018 to 28-12-2018. According to the applicant, applicant No.1 who was looking after the litigation, approached the Advocate at Latur on 28-12-2018 and got the guidance to file second appeal. Thereafter, she applied for the certified copies.

5. Though the learned Advocate appearing for respondent No.1 is strongly objecting, yet taking into consideration the age of applicant No.1, since she is illiterate lady, duration of the delay and the fact that she was suffering from some disease, though it was much after the pronouncement of the Judgment by the First Appellate Court, the delay deserves to be condoned. The inconvenience that would be caused to respondent No.1 can be compensated in terms of money. Hence, the civil application stands allowed and disposed of.

6. The delay caused in filing second appeal stands condoned subject to deposit of cost of Rs.5000/- (Five thousand) within a period of one (1) month from today by the applicants in this Court.

7. After the amount is deposited, Registry to verify and register the second appeal. The amount be given to respondent No.1.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-