

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**909 CIVIL APPLICATION NO.3528 OF 2020
IN CRA/35/2020**

**JANARDHAN MANIKRAO WAGH AND ANOTHER
VERSUS
SHANKAR KANHU SHENDURKAR (DEAD) THROUGH L.RS.
SANTOSHSHANKAR SHENDURKAR AND ANOTHER**

Mr.Hrishikesh Chitale, Advocate for the applicants.
Mr.D.R. Markad, Advocate for respondent Nos.1 and 2.

**CORAM : N.J.JAMADAR, J.
DATE : 31.03.2021**

PC :-

01. This is an application for condonation of 35 days delay in preferring Civil Revision Application against order dated 29th June, 2019, passed by learned 2nd Joint Civil Judge, Junior Division, Pathardi, on an application preferred by the petitioners - defendants [Exh.44] for rejection of the plaint under the provisions of Order VII Rule 11 of the Code of Civil Procedure, 1908, whereby the application came to be rejected.

02. The applicants-defendants claim that they both are senior citizens and suffering from ailments. Therefore, they could not take requisite steps to approach the Advocate and entrust the documents so as to file proceeding to assail the aforesaid order passed by

the learned Civil Judge. Initially Writ Petition No.1561 of 2020 was filed and later on pursuant to the order passed by this Court on 28.01.2020, the said petition was permitted to be converted into a Civil Revision Application. Thereupon, the objection as to limitation has been notified. The applicants averred that the delay is not intentional and in the event it is not condoned, the applicants would suffer irreparable loss.

03. Mr.Markad, learned Counsel for respondent Nos.1 and 2 has strongly opposed the prayer for condonation of delay. It was submitted that the applicants have not properly accounted for the delay and no sufficient cause is made out to condone the delay.

04. It is trite that an application for condonation of delay should receive liberal consideration. The Courts lean in favour of condonation of delay, so as to advance cause of substantive justice. In the case at hand, indisputably the applicants had initially filed the writ petition assailing the order passed by the learned Civil Judge.

05. Having regard to the situation in the life of the applicants the cause assigned by the applicants that they could not take requisite steps within the stipulated

period of limitation as they were suffering from ailments cannot be said to be totally inconceivable and unreasonable. Thus, I am persuaded to condone the delay.

06. Hence, the following order.

The application stands allowed in terms of prayer clause (B).

The delay in preferring the Revision Application stands condoned.

The Revision Application be registered and listed for admission after two weeks.

The Civil Application stands disposed of.

[N.J.JAMADAR,J.]