

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

**CIVIL APPLICATION NO. 7252 OF 2014
IN
SECOND APPEAL ST. NO.10671 OF 2014**

Sindhubai w/o Ramkisan Jayabhaye = **APPLICANT
(Orig.Plaintiff)**

VERSUS

1) Ramkisan @ Ramkrushna s/o
Maruti Jayebhaye & Ors. = **RESPONDENT/S**

Mr.SS Gangakhedkar ,Advocate for Applicant-Appellant;

Mr.GP Darandale, Adv. h/for Mr.NK Kakade, Advocate for
Respondents

CORAM : SMT.VIBHA KANKANWADI,J.

DATE : 2nd August, 2021.

PER COURT :-

1. Present application has been filed for
condoning delay of 314 days in filing the Second
Appeal.

2. Heard learned Advocates for the
respective parties. In order to cut short, it can
be stated that both of them have made submissions
in support of their respective contentions.

3. The applicant, who is original plaintiff,

(2)

had filed a suit for maintenance under Hindu Adoption and Maintenance Act, against her own husband and children. Her Special Civil Suit No. 36/2008 was decreed by learned Civil Judge, Senior Division, Beed on 9.9.2009. Defendant No.1 was directed to pay maintenance @ Rs.3,000/- per month to the plaintiff-applicant. Original defendants then challenged the said decree before the District Court, Beed by filing an appeal bearing RCA No. 148/2009. The appeal was heard by learned District Judge-2, Beed and it was allowed. The decree passed by the learned Trial Judge was set aside and the suit was dismissed on 15.3.2013. The applicant-plaintiff intends to file the Second Appeal, however, there is delay of 314 days. The applicant has stated that she is fighting against her own husband and children, that too for maintenance, therefore, it can be considered that she has no financial capacity. She was ill during the intervening period because she has fallen down from the bus at Aurangabad. She had come to Aurangabad to deliver the papers to her Advocate at Aurangabad. These reasons, though there is no medical certificate attached, are reasonable and

(3)

sufficient.

4. Respondent No.1 has filed an affidavit in reply, denying all the allegations; yet taking into consideration the duration of the delay, the position of the applicant, the cause, for which she was fighting, the Trial Court was in her favour and then the first appellate court reversed the said finding, lead this Court to condone the delay.

5. The application stands allowed and disposed of. The Registry to verify and register the Second Appeal and place it for further consideration on 5th September, 2021.

(SMT. VIBHA KANKANWADI)
JUDGE

BDV