

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

**927 CIVIL APPLICATION NO.10866 OF 2019
IN SAST/10885/2019
WITH CA/10867/2019 IN SAST/10885/2019**

**BHIMA RAISING RATHOD (DECEASED) THROUGH LRS
VERSUS**

MOHAN BANSI JADHAV AND ANOTHER

...

Mr. P.P. Shahane, Advocate for applicants

Mr. P.N. Surwase, Advocate for respondent No.1

Mr. R.T. Biradar, Advocate for respondent No.2

...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 11th FEBRUARY, 2021.

PER COURT :

1 Present application has been filed for getting delay of 40 days condoned in filing Second Appeal. The deceased applicant was the original plaintiff, who had filed Regular Civil Suit No.1015/2006 for declaration and cancellation of sale deed. Said suit came to be dismissed by learned 7th Joint Civil Judge Junior Division, Aurangabad on 28.06.2011. His legal representatives preferred Regular Civil Appeal No.268/2011 before learned District Judge-3, Aurangabad. The said appeal came to be dismissed on 31.08.2018. They want to challenge the said Judgment and Decree, however, as aforesaid, there is delay of 40 days.

2 Learned Advocates appearing for the respondent No.1 as well as respondent No.2 strongly oppose the application and submit that no reasonable and proper ground has been shown for condoning the delay.

3 It is not in dispute that the applicants as well as respondents are labour and agriculturists and they are coming from rural area. The applicants are accepting that there was no communication between them and their Advocate, and therefore, they state that they had no knowledge about the Judgment and Decree. Then they say that some time is spent in collecting money for Court Fees, typing and copying expenses. 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/- (Rupees Five Thousand only), 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 respondents are allowed to withdraw the said amount.

(Smt. Vibha Kankanwadi, J.)