

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

912 CIVIL APPLICATION NO.4865 OF 2020
IN SAST/15581/2019

SHESERAO LIMBRAJ ANDHARE
VERSUS
BABASAHEB LIMBRAJ ANDHARE AND OTHERS

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Mr. V.P. Golewar, Advocate for the applicant

Mr. E.S. Murge, Advocate h/f Mr. K.R. Doke, Advocate for the respondent

No.1

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 13th OCTOBER, 2021

PER COURT :

1 Present application has been filed for getting delay of 67 days condoned in filing Second Appeal. Appellant is the original plaintiff. He wants to challenge the dismissal of his suit bearing Regular Civil Suit No.352/2003 by learned Civil Judge Junior Division, Bhoom, Dist. Osmanabad. The said suit was filed for partition and separate possession. After the dismissal of the suit, he preferred Regular Civil Appeal No.124/2014 (Old R.C.A. No.148/2010). It was dismissed by learned learned District Judge-1, Bhoom on 26.10.2018. He wants to file Second

Appeal, however, as aforesaid, there is delay of 67 days.

2 Heard learned Advocate Mr. V.P. Golewar for the applicant and learned Advocate Mr. E.S. Murge holding for learned Advocate Mr. K.R. Doke for the respondent No.1 as well as perused the affidavit-in-reply produced on record on behalf of the respondent No.1. Other respondents are served.

3 For the delay the reason that has been given is that he had collected all the documents, however, the entire file containing certified copies and other records was misplaced by him in his house. He was under the bona fide impression that file might have been given to the Advocate. Thereafter, it is stated that his Advocate was ill from November, 2018 to March, 2019. It is stated that after extensive search of his house he could find the file on 02.05.2019. Learned Advocate for the applicant is submitting that the applicant is old and, therefore, he could not remember where he had kept the file.

4 Though the reason might not be so convincing; yet, taking into consideration the delay of 67 days and taking liberal approach, the delay stands condoned.

5 Application stands allowed and disposed of, subject to payment of costs of Rs.8,000/- (Rupees Eight Thousand only) in this Court, within a

period of one month from today.

6 After the amount is deposited, registry to verify and register the
Second Appeal.

7 The amount be given to respondent No.1.

(Smt. Vibha Kankanwadi, J.)

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