

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

941 CIVIL APPLICATION NO.11444 OF 2018
IN SAST/19152/2018

AMBIKARASAD GANESHPRASAD TIWARI
VERSUS
CHANDRASING NATHUSINGH GAUTAM AND OTHERS

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Advocate for Applicant : Mr. Chhabda Ranbir L.
Advocate for Respondent Nos.2-a, 2-b, 3 & 4 : Mr. Salok Amol M. & M.K. Bhosle

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 27th January, 2021

ORDER :

. Present application has been filed for condonation of 167 days delay in filing Second Appeal.

2. Heard both sides.

3. Though the learned Advocate representing respondent Nos.2-a, 2-b, 3 and 4 strongly opposes the application on the ground that there is absolutely no record placed before this Court to substantiate his contention that he is suffering from many ailments and he was under the treatment of Neurosurgeon and since no reasonable ground has been shown, the application deserves to be dismissed.

4. Present applicant appears to be the original plaintiff who had filed

the suit for declaration and possession. The suit was dismissed by learned Civil Judge Junior Division, Jafrabad on 29-08-2011. Thereafter, he had filed Regular Civil Appeal No.175 of 2011, which appears to have been dismissed by learned District Judge-2, Jalna on 12-10-2017. Now, he intends to file the Second appeal, however, there is delay of 167 days.

5. The applicant is admittedly 80 years of age and he says that though he is originally from Jafrabad and has property at Jafrabad, he stays at Gulbarga in Karnataka State. Therefore, taking into consideration his age and the fact that he might be suffering from certain ailments, liberal approach is taken. The inconvenience that has been caused to the respondents can be compensated in terms of money and, therefore, the application deserves to be allowed. Accordingly, it is allowed.

6. The delay in filing Second Appeal is hereby condoned, subject to deposit of cost of Rs.5,000/- in this Court within a period of 15 days from today.

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

8. Respondents are thereafter permitted to withdraw the said amount of cost without further reference to the Court.

[SMT. VIBHA KANKANWADI, J.]

scm