

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

902 CIVIL APPLICATION NO.11055 OF 2012
IN SAST/24066/2012

SHIVAJI RAGHUNATH KOVHALE
VERSUS
SHRIKANT RAGHUNATH KOVHALE AND ORS

...
Advocate for Applicant : Mr. Shinde Bhagwat A.
Advocate for Respondent Nos.1 to 3, 6 to 8 : Mr. Deshpande D. P.
...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 06.07.2021

ORDER :-

. Heard both sides.

2. Present application has been filed for getting the delay of 70 days condoned in filing the Second Appeal. Present applicant-appellant is the original defendant No.1, who intends to challenge the judgment and decree passed in Regular Civil Appeal No.139 of 2007, which was filed by original plaintiff – present respondent No.1 before the Principal District Judge, Latur. By the said decree that was passed on 14.02.2012, the learned Principal District Judge had allowed the appeal, whereby the judgment and decree passed in Regular Civil Suit No.34 of 1996 by learned Civil Judge Junior Division, AUSA, Dist. Latur came to be set aside. The said suit was for partition and separate possession.

3. Learned Advocate Mr. Deshpande appearing for respondent No.1-original plaintiff in this application strongly opposes the application contending that no sufficient much less reasonable ground has been shown for condoning the delay.

4. Though in the present application, the applicant had not given the details of delay of 70 days, however, it has been tried to contend that since he is the only earning member of the family, carrying out agricultural activities, could not provide the necessary documents to the Advocate at Aurangabad. It is to be noted that the applicant is 55 years old person doing agriculture and resides in the rural area and, therefore, taking a lenient view and also taking into consideration the duration of the delay, the discretion deserves to be exercised in favour of the applicant-appellant, however, the inconvenience that has been caused to respondent No.1 deserves to be compensated in terms of money. Hence, the following order :-

ORDER

- I) Application stands allowed.
- II) The delay caused in filing Second Appeal stands condoned subject to deposit of cost of Rs.20,000/- within a period of one month from today in this Court.

III) After the amount is deposited, registry to verify and register the Second Appeal and place the same for further consideration on 23.08.2021.

[SMT. VIBHA KANKANWADI, J.]

scm