

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

908 CIVIL APPLICATION NO.2701 OF 2019
IN SAST/25073/2018

DINKAR GANGADHAR DARANDALE
VERSUS
EKNATH GANGADHAR DARANDALE AND OTHERS

...
Advocate for Applicants : Mr. Bora Satyajit S.
Advocate for Respondent Nos.1, 2, 4 to 6 : Mr. C. K. Shinde
...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 27.08.2021

ORDER :-

. Present application has been filed for getting the delay of 658 days condoned in filing second appeal.

2. Heard learned Advocate Mr. S. S. Bora for applicants and learned Advocate Mr. C. K. Shinde for respondent Nos.1, 2, 4 to 6. In order to cut short it can be said that both of them have strongly made submissions in support of their respective contentions.

3. Perusal of the application would give an impression that two grounds have been tried to be assigned for the delay. One is medical ground and another is that the applicant was trying to settle the dispute and was under the impression that one of the Advocate, relative of the

applicant, would try to mediate. He could get the said fact also from the withdrawal of one of the suit between the parties and, therefore, was under the impression that his possession will not be disturbed.

4. As regards medical ground is concerned, there is no documentary evidence supporting that contention. Merely because the applicant is aged 66 years, it cannot be presumed that he is suffering from any ailments. Further, as regards the attempt to settle the dispute is concerned, there is no supporting affidavit of the concerned Advocate, the relative of the applicant. It is to be noted that the applicant intends to challenge the order of dismissal of his application for condoning the delay of 26 days filed before the learned District Judge, Newasa for want of prosecution. It is to be noted that for the sake of 26 days of delay, now he has committed delay of at least 658 days to come to this Court.

5. Be that may, the applicant as well as the respondents are from rural area. They are agriculturists. The dispute is in respect of immovable property. Though the applicant cannot be said to be layman in the background that litigations are going on and, therefore, it cannot be said that he is not aware about the procedure with the Courts, yet, liberal approach is required to be taken. The delay deserves to be condoned, however, heavy cost is required to be imposed. Hence, the

following order :-

ORDER

- I) Application stands allowed and disposed of.
- II) The delay caused in filing second appeal stands condoned, subject to deposit of cost of Rs.50,000/- (Fifty Thousand only) in this Court within a period of one month from today.
- III) After the cost amount is deposited, registry to verify and register the second appeal.
- IV) The amount be disbursed to respondent Nos.1, 2, 4 to 6 equally.

[SMT. VIBHA KANKANWADI, J.]

scm