

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

941 CIVIL APPLICATION NO.12313 OF 2019
IN SAST/28458/2019

SANJAY BABASAHEB PAWAR
VERSUS
UTTAM NARAYAN PIMPALE DIED LRS. KALABAI UTTAM PIMPALE AND
OTHERS

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Advocate for Applicant : Mr. Kotkar Sachin S.
Advocate for Respondent Nos.1 to 5 : Mr. M. N. Shaikh h/f Mr. Pathan
Zafar M

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 26th February, 2021

ORDER :-

. Present application has been filed for getting 13 days delay condoned in filing Second Appeal.

2. Present applicant is the original plaintiff, who had filed Regular Civil Suit No.8 of 2012 before the learned Civil Judge, Senior Division, Newasa for specific performance of the contract. It came to be decreed on 14.12.2015. It appears that the legal representatives of original defendant filed Regular Civil Appeal No.69 of 2015 before the learned District Judge-1, Newasa and the said appeal came to be partly allowed. The suit to the extent of specific performance of contract was dismissed and the order for refund of earnest amount together with interest was

passed. Now, the plaintiff intends to challenge the said judgment and decree passed by the first Appellate Court, however, there is delay of 13 days.

3. Though learned Advocate Mr. M. N. Shaikh holding for learned Advocate Mr. Pathan strongly opposes the application on the ground that the reasons mentioned in the application cannot be said to be reasonable and sufficient to condone the delay, yet, taking into consideration the duration of the delay and by taking liberal approach, the application stands allowed. The inconvenience that would be caused to the respondents can be compensated in terms of money. Hence, the following order :-

ORDER

- I) Application stands allowed.
- II) Delay caused in filing Second Appeal stands condoned subject to deposit of cost of Rs.5,000/- in this Court within a period of 15 days from the date of this order.
- III) After the cost amount is deposited, registry to verify and register the Second Appeal.
- IV) The cost amount is allowed to be withdrawn by the respondents equally.

[SMT. VIBHA KANKANWADI, J.]