

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

19 CIVIL APPLICATION NO.2038 OF 2019
IN SAST/30254/2017

NOOR AHMED GULAM NABI SHAIKH
VERSUS
ARVIND @ ARUN HARISCHANDRA AND OTHERS

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Advocate for Applicant : Mr. Choudhary S. S. & Mr. Amol T. Jagtap
Advocate for Respondent Nos.1 to 4 : Mr. Gaikwad (Patil) Ajit B. &
Mr. Khanapure Kapil C. (Absent)

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 23.08.2021

ORDER :-

. Present application has been filed for getting the delay of 557 days condoned in filing second appeal. The applicant is the original plaintiff, who had filed suit for declaration of injunction. It was dismissed and the appeal preferred by him is also dismissed. Now, he wants to challenge those decrees in second appeal.

2. Heard learned Advocate Mr. S. S. Choudhary for the applicant. Learned Advocate for the respondents is absent.

3. The reasons given for the delay are the age and ailment of the applicant. It appears that when the suit was filed by the present appellant, he was 65 years old. Thereafter, when the first appeal was

filed, he was 70 years old. Then definitely at the time of this application, he would be more than 72 years. It is also stated that due to the ailment, there was communication gap between him and his Advocate. The document in the form of identity card issued under the control programme of Tuberculosis states that the appellant was suffering from Tuberculosis of lungs. He has also filed the test reports and also the prescription. Prescription appears to be of earlier date i.e. 21.02.2016. Therefore, taking into consideration the liberal view that is required to be taken while dealing with the application for condonation of delay, the delay caused in filing second appeal deserves to be condoned. Accordingly, it is condoned. Application stands allowed and disposed of.

4. Registry to verify and register the Second Appeal.

[SMT. VIBHA KANKANWADI, J.]

scm