

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

**928 CIVIL APPLICATION NO.702 OF 2017
IN SAST/34451/2016**

HARIBHAU RAOJI MUNJAL AND OTHERS
VERSUS
RAMESH HARIBHAU MUNJAL

...
Advocate for Applicants : Mr. S. N. Gaikwad h/f Ghute Suhas B.
Advocate for Respondent : Mr. Kalani Pravin N. (Absent)
...

CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 20-01-2021.

PER COURT :

1. Heard learned Advocate Mr. S. N. Gaikwad holding for Mr. S. B. Ghute for applicants. Learned Advocate for respondent is absent.
2. Present application has been filed to get the delay of 395 days condoned in filing second appeal. It will not be out of place to mention here that though the respondent is represented by Advocate, up till now he has not filed any affidavit-in-reply objecting the application.
3. It has been contended by the applicants that after the Judgment was pronounced by the First Appellate Court, applicants No.1 to 3 were out of village in search of job. They had gone to Pune and Mumbai for searching the job due to drought situation. Applicant No.4 is their

married daughter and resides with her husband. It is also stated that the applicants could not receive any intimation about the dismissal of their appeal from their Advocate. They could get the knowledge about the decision by the First Appellate Court after they returned back to their village. They say that, due to the poor financial condition and also due to their illiteracy, they could not approach this Court in time. The delay is unintentional.

4. Though certain reasons have been given in paragraph No.2, they are so vague and it appears that they have been intentionally kept vague, yet taking into consideration the fact that the applicants are from rural area and illiterate, leniency is required to be shown while dealing with application for condonation of delay. However, the loss, if any, occurred to the respondent deserves to be compensated.

5. Further it will not be out of place to mention here that the record shows that even before approaching first Appellate Court, the present applicants had gone with delayed appeal and the said delay application also allowed by imposing costs of Rs.500/-. Therefore, this is the second time in the ladder the same thing has been committed by the present applicants, and therefore, the cost will

have to be on higher side. Hence, following order.

ORDER

- 1) Application stands allowed.
- 2) The delay of 395 days caused in filing second appeal is hereby condoned subject to deposit of cost of Rs.7000/- (seven thousand) to be deposited within a period of three (03) weeks from today.
- 3) After the amount is deposited, office to scrutinize the second appeal and register it.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-