

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

913 CIVIL APPLICATION NO.14306 OF 2019
IN SAST/33814/2019

SUNIL HARIBHAU BENDBHAR

VERSUS

BABAN DHONDIBA GAWADE AND ANOTHER

...

Mr. N.C. Garud, Advocate for the applicant

Mr. D.R. Markad, Advocate for the respondent No.1

Mr. S.S. Bora, Advocate for the respondent No.3

...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 22nd JULY, 2021.

PER COURT :

1 Present application has been filed for getting delay of 173 days condoned in filing Second Appeal.

2 Heard learned Advocate Mr. N.C. Garud for the applicant, learned Advocate Mr. D.R. Markad for the respondent No.1 and learned Advocate Mr. S.S. Bora for the respondent No.3.

3 Learned Advocate Mr. D.R. Markad appearing for the respondent No.1 strongly opposes the application, on the ground that the reason given

for the delay is not sufficient, much less reasonable. He submits that there is nothing supporting the contention of the applicant that his Advocate had not informed him about the decision by the First Appellate Court.

4 It will not be out of place to mention here that by filing Civil Application No.3295 of 2020 a party has been added by order passed by this Court on 08.07.2021. Learned Advocate Mr. S.C. Bora appearing for the respondent No.3, now the added party, has no objection.

5 It is to be noted that in the present application the applicant has contended that though the decree was passed by First Appellate Court on 29.01.2019, his Advocate has not informed about the said Judgment to him and when he received the copies in Darkhast proceedings in first week of September, 2019, he came to know about the decision by the First Appellate Court. It is to be noted that the dispute appears to be in respect of an immovable property and it has been held that the present applicant had the preferential right to purchase the suit property. So many questions are involved in the appeal. There is no reason to disbelieve the applicant, when he is blaming his Advocate for not informing him about the decision. The inconvenience caused to respondent No.1 is concerned, it can be compensated in terms of money. Further, when the parties are from rural area, some leniency is definitely required to be shown, when such grounds

are raised. Hence, following order.

ORDER

1 The application stands allowed and disposed of.

2 The delay caused in filing Second Appeal stands condoned, subject to deposit of costs of Rs.5,000/- (Rupees Five Thousand only), within a period of one month from today, in this Court.

3 After the amount of costs is deposited, Registry to verify and register the Second Appeal. Thereafter the amount of costs be disbursed to respondent No.1.

(Smt. Vibha Kankanwadi, J.)

agd