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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

908 CIVIL APPLICATION NO.7218 OF 2020
IN
SAST/39526/2018

BAPPAJI KASHINATH KAPRE
VERSUS
THE BLOCK DEVELOPMENT OFFICER, KAIJ AND ANOTHER

...

Advocate for Applicant : Mr. DV Gade, S
Mr. Prashant D. Suryawanshi, Adv. For R/1 And 2.

CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 30th November, 2021

PER COURT :-

1. Present application has been filed for getting delay of 62 days condoned in filing the Second Appeal.
2. The applicant is original plaintiff, who had filed RCS No.9/2005 before learned Joint Civil Judge, JD, Kaij, District Beed for declaration of ownership over the suit land and for perpetual injunction. The suit was dismissed on 27.4.2012. He preferred Regular Civil Appeal No.180/2012 and it was dismissed on 4.7.2018. He wants to file Second Appeal, however, as aforesaid, there is delay of 62 days.
3. Heard learned Advocates appearing for the respective parties.
4. It has been pointed out by learned Advocate for the applicant that the delay of 62 days has occurred as the

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Advocate for whom he had given instructions to file the Second Appeal, was under shifting of his office and the file of the applicant was misplaced by the Advocate. There was no deliberate delay on the part of the applicant, but it was beyond his control.

5. Learned Advocate appearing for the respondents strongly opposing the application by affidavit in reply, submitted that day to day delay has not been explained and whatever reasons have been given, cannot be said to be sufficient much less reasonable to condone the delay.

6. At the outset, it is to be noted that Certified copies appear to have been collected by the applicant within reasonable time. He also states on oath that he had contacted the Advocate at Aurangabad in 3rd week of October 2018. The limitation would have ended by 22nd October, 2018. But then he says that the Advocate's office was under shifting and the papers which he had handed over, were misplaced.

7. No doubt, neither the concerned Advocate has filed any affidavit supporting the said contention nor the earlier address and new address of the Advocate's office has been given; yet we cannot say that the reason is not sufficient much less reasonable. The job of the applicant

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was done by him to hand over the documents/papers to the Advocate and also to instruct him to prepare the Second Appeal. However, the Advocate had misplaced the brief. Under such circumstance, reasonable ground has been shown to condone the delay.

8. Accordingly, the application stands allowed and disposed of. The delay stands condoned. Registry to verify and register the Second Appeal.

(SMT. VIBHA KANKANWADI)
JUDGE

BDV