

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.3344 OF 2016
AND
CIVIL APPLICATION NO.3400 OF 2015
IN
FIRST APPEAL (ST.) NO.25294 OF 2015**

Shri Bapu Rau Kolhapure (Kamble) ... Applicant

V/s.

Rau Devara Mahar, Since deceased

Through his Legal heirs

Shamrao Rau Kolhapure and ors. ... Respondents

Mr.Rushikesh C. Barge i/by Mr.Nitin Dalvi, Advocates for the Applicant.

Mr.Kalpesh Patil i/by Mr.P.D.Dalvi, Advocates for the Respondent Nos.1A to 1D.

**CORAM : MADHAV J. JAMDAR, J.
DATE : DECEMBER 04, 2021.**

P.C.:-

1. Civil Application No.3344 of 2016 is filed for condonation of delay of 181 days in filing first appeal.
2. Mr.Rushikesh Barge submitted that the impugned decree is ex-parte and therefore the Applicants were not aware about the decree. He submitted that First Appeal is filed immediately after the receipt of information about the impugned decree.
3. Mr.Kalpesh Patil, the learned Advocate appearing for the respondents submitted that there are no sufficient reasons given in the civil application for condonation of delay and therefore, the civil application be dismissed.
4. Perusal of the civil application shows that the applicants

who are the heirs of deceased Rau Devara Mahar and deceased Shamrao R. Kolhapure are not made parties to the proceedings filed before the Civil Judge, Junior Division Kolhapur bearing Misc.Civil Application No.357 of 2014. By the impugned order heirship certificate is issued in favour of the respondents. In the application it is stated that on the basis of impugned judgment the respondents applied and got their names mutated in 7/12 extract on 19th January, 2015 and in view of that in the month of February, 2015 for the first time the applicants came to know about the passing of impugned judgment. Thereafter, the applicants applied for certified copy of the entire record and they received the same on 27th August, 2015 and thereafter, immediately the first appeal is filed. Thus, there are sufficient reasons given in the civil application.

5. Accordingly, Civil Application No.3344 of 2016 is allowed in terms of prayer clause (a).

6. Civil Application No.3400 of 2015 is adjourned to 18th December, 2021.

(MADHAV J. JAMDAR, J.)

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