

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

**CIVIL APPLICATION (CAS) NO. 26 OF 2017
WITH
CIVIL APPLICATION (CAS) NO. 51 OF 2017
WITH
CIVIL APPLICATION (CAS) NO. 937 OF 2018
IN
SECOND APPEAL (ST.) NO. 15219 OF 2016**

Vasant Bhiku Gaikwad ... Applicant/Appellant
V/s.
Narayan Dattatray Kulkarni
(Since deceased) Through LRs & Ors. ... Respondents

Mr.S.G. Deshmukh i/b. Mr.R.A. Shelke for Applicant/Appellant.
Mr.S.C. Wakankar for Respondent Nos.1A to 1F & 2A to 2C.

CORAM : A.S. GADKARI, J.
DATE : 23rd November 2021.

PC. :

1. Applicant has filed Civil Application No.26 of 2017 for condonation of delay of 4 years and 120 days in filing the Second Appeal.
2. Heard Mr.Deshmukh, learned counsel for Applicant/Appellant and Mr.Wakankar, learned counsel for Respondent Nos.1A to 1F & 2A to 2C. Perused record.
3. The impugned Judgment and Order dated 10th October 2011 is passed by the Appellate Court i.e.District Judge-2, Islampur in Regular Civil

Appeal No. 58 of 2001. It is the case of the Applicant that, his wife was not keeping good health; was seriously ill with heart disease and was subsequently operated for, 3 years prior to filing of the present application on 27th May 2016. That the Applicant was also suffering from hyper tension with Ischemic Heart Disease with L.S. spondylosis with debility and was undergoing treatment from 1st January 2012 onwards. Applicant has further pleaded that, he applied for certified copy of the impugned Judgment and Order on 28th November 2015 and the same was ready and delivered to him on 2nd December 2015. In these circumstances, there is a delay of 4 years and 120 days in filing the present Appeal.

4. Perusal of record indicates that, the Applicant has placed on record certain medical reports. It is to be noted here that, the details of the heart ailment from which wife of the Applicant was suffering has not been pleaded in the application and it is conspicuously silent. As far as medical reports of the Applicant is concerned, the first certificate is dated 22nd January 2013. The Coronary Angiography Report is dated 28th January 2016. In the said Coronary Angiography Report, the concerned Cardiologist had recommended the Applicant to undergo PTCA with stenting to Mid LAD. Whether the Applicant has infact undergone angioplasty within reasonable period from 28th November 2016 has also not been mentioned in the application. According to this Court, the pleadings in the application are as

vague as possible to ascertain contention for such an inordinate and colossal delay. The Applicant has also stated that all these facts have prevented him from contacting his Advocate immediately after passing of the impugned Judgment and Order dated 10th October 2011 by the Appellate Court.

5. As noted earlier, the impugned Judgment and Order was passed on 10th October 2011 and the Applicant applied for its certified copy on 28th November 2015. There is no explanation least to say any satisfactory explanation put forth by the Applicant for condoning the said inordinate and colossal delay of 4 years and 120 days.

6. In view of the above, I find no merits in the Application. Civil Application No.26 of 2017 for delay in filing the Second Appeal is accordingly dismissed.

7. In view of dismissal of Civil Application No.26 of 2017, Second Appeal (St.) No. 15219 of 2016 along with Civil Application No.51 of 2017 and Civil Application No.937 of 2018 do not survive and are accordingly disposed off.

[A.S. GADKARI, J.]