

Bhalchandra
G. Dusane

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

WRIT PETITION NO.1246 OF 2020

Pratibha Prabhakar Kulkarni & Ors. Petitioners

Vs.

Sumati Sudhakar Deshpande & Ors..... Respondents

Mr. Kuldeep Nikam for Petitioner

Mr. D.V. Sutar for Respondents

Coram : NITIN W. SAMBRE, J.

Date : 22nd January, 2021

P.C.:

1. Heard respective counsel.
2. There is delay of 640 days in preferring First Appeal against the judgment and decree in a partition suit. The order impugned dated 25th July, 2019 passed by the Principal District Judge, Sangli is the subject matter of challenge.
3. The submissions are that the orders impugned lacks reasons. According to the learned counsel, there is no sufficient cause brought to the notice of the Court below so also this Court, which could be justified the delay in filing of the appeal.

4. Per contra, learned counsel for the Respondents submits that the discretion is already exercised subject to the condition and that being so, this Court should be slow in causing interference.

5. Considering the fact that the decree under challenge is that of partition and separate possession and an appeal being continuation of the suit, exercise of discretion of the District Judge in condoning the delay appears to be justified.

6. However, the costs of Rs.10,000/- saddled is enhanced to Rs.25,000/- to be deposited in the trial Court within the period of eight weeks from today, to which the Petitioners would be entitled to withdraw.

7. The petition is disposed of in above terms.

(NITIN W. SAMBRE, J.)