

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

**CIVIL APPLICATION NO. 260 OF 2019
IN
SECOND APPEAL (ST) NO. 36255 OF 2018**

Mahesh R. Sharma	..Applicant
Vs.	
Terrance Joseph Gudinho and Ors.	..Respondents

Mr. R. D. Soni @ Ms. Uma Sharma i/b. Dharam & Co., for the Applicant.
Mr. A. J. Almeida, for the Respondents.

**CORAM : C.V. BHADANG, J.
DATE : 04th MARCH 2021**

P.C.

. This is an application for condonation of delay of 93 days in filing the second appeal. The applicant is an Obstructionist. The application under Order XXI Rule 97 of CPC filed by the respondents decree holder was dismissed by the Executing Court on 1/8/2012 which was challenged by the decree holders in an appeal, which came to be allowed on 15/6/2018 which judgment and decree is sought to be challenged in this second appeal.

2. On hearing the learned counsel for the parties and on perusal of the record, it appears that the applicant initially challenged the judgment and decree dated 15/6/2018 in Civil Revision Application (ST) No.2347/2018 which was allowed to be withdrawn on 22/10/2018 with liberty to file second appeal.

3. Mr. Soni, the learned counsel for the applicant submitted that under a misconception the applicant again applied for certified copies to file the second appeal resulting into the delay. The present application came to be filed on 27/8/2019. It is pointed out that the office has shown the delay of 93 days.

4. The learned counsel for the respondents / decree holders has opposed the application. However, it is alternatively submitted that if this Court is inclined to condone the delay, it may be subject to appropriate costs.

5. On hearing the learned counsel for the parties and having regard to the circumstances, the delay is condoned subject to applicant paying costs of Rs.20,000/- to be paid to the respondents / decree holders within two weeks from today.

6. The payment / deposit of costs shall be condition precedent to condonation of delay. On payment / deposit of the costs, the office to register the second appeal subject to removal of office objections, if any. In the event, the second appeal is registered, the same to stand over for admission on 6/4/2021.

C.V. BHADANG, J.