

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

**Civil Application (CAS) No. 1336/2018
In
Second Appeal Stamp No.19163/2018**

Prabhakar s/o Wasudeo Gawande and others.
Versus
Ramdas s/o Huma Gawande and others.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri Shrikant Deo, Advocate for the Appellants.
Ms. U.A.Patil, Advocate for the respondents.

**CORAM : ANIL S. KILOR, J.
DATED : 17 NOVEMBER 2021**

This is an application for condonation of
delay of 794 days in filing the second appeal.

2. Heard learned counsel for the respective parties.

3. Learned counsel for the applicants submits that applicant no.1 was suffering from Chronic Plaque Psoriasis disease and other applicants were so far busy in taking care of him and therefore could not file Second Appeal within limitation and as such the delay

has been caused in filing the Second Appeal. The medical report and medical treatment papers are produced on record which show that the applicant no.1 was suffering during this period.

4. Smt. Patil, learned counsel strongly opposes the application and points out that there are eight applicants and the reason stated in the application is only relating to applicant no.1. However, no sufficient cause has been shown as regards the applicant nos. 2 to 8 for not filing the second appeal within limitation. She submits that applicant nos. 2 to 8 could have taken steps in filing the second appeal, in absence of applicant no.1. Accordingly, she prays for dismissal of the application.

5. After going through the reasons stated in the application and perusal of medical papers filed on record, it appears that the applicant no.1 was not in a position to file the second appeal within limitation. However, no sufficient cause as regards the applicant nos. 2 to 8 for not taking necessary steps to file the second appeal within limitation has been shown. However, looking to the subject matter of the appeal and as it is settled law that in the matter of condonation of delay, the Court should adopt the liberal approach, I

am of the view that the delay of 792 days needs to be condoned subject to payment of costs by the applicants. Accordingly, the application is allowed.

6. The delay in filing the second appeal is condoned, subject to payment of costs of Rs.8,000/- within a period of two weeks failing, which the application shall stand rejected.

7. On deposit of costs within stipulated period, the office is directed to register the Second Appeal and place the matter for 'Admission'.

[ANIL S. KILOR, J.]