

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CIVIL APPLICATION (CAS) NO.48/2020
IN
SECOND APPEAL (ST.) NO.17468/2018

Anjanabai Tukaram Raut and others Vs.
Kamlabai Mukharu Gohane and others.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri Vishwarupe, Advocate h/f Shri Rajnish Vyas, Advocate
for appellants/applicants.
Shri Laukik Janbandhu, Advocate for respondent no.1.

CORAM : S.M. MODAK, J.
DATE : OCTOBER 12, 2021.

Heard both the sides. There is a delay of 179 days in preferring the second appeal. The present applicants were the original defendants. The suit filed for partition on behalf of eight persons i.e. present respondents, was dismissed. The First Appeal was allowed and the suit was decreed against them. The present applicants/original defendants want to file second appeal.

2. Applicant no.1, being a senior citizen and suffering from ailments, she could not prefer the appeal in time. Along with that, she being a poor, is also one of the reasons. Whereas, on behalf of the non-applicants, it is submitted that no medical documents were filed and apart from applicant no.1, there are applicant nos. 2 and 3, who preferred an appeal.

3. By way of clarification, it is submitted that applicant no.3 is a married daughter. It is true that medical

2

documents have not been filed. It is also true that applicant no.3 Vimal Prabhakar Bhusari, being married, she must be busy in her household chores. It may also be true that applicant no.2 can prosecute the appeal only with the assistance of applicant no.1 who is one of the daughters of the common ancestor. The suit pertains to the property belonging to her father. So, there is every reason to accept the reasons offered. The delay is only for 179 days, it can be condoned, but subject to costs. Hence the following order:

ORDER

- i) Delay of 179 days in preferring second appeal is condoned.
- ii) The applicants to pay costs of Rs.3000/- to the opponents.
- iii) Second appeal be registered.
- iv) Civil Application is allowed and disposed of accordingly.

SECOND APPEAL ST. NO.17468/2018

Appellants to supply the copy of memo of appeal and other annexures to learned Advocate for all the respondents. The respondents waive notice.

In view of that, matter be kept for admission after appeal is registered after removing the office objections, if any.

Matter be kept on **22/11/2021**.

JUDGE