

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 1930 OF 2022

Dnyaneshwar Ambadas Jadhav
and another .. Petitioners

Versus

Likadu Ambadas Jadhav and others .. Respondents

Shri Upendra B. Bilolikar, Advocate for the Petitioners.

CORAM : SANDEEP V. MARNE, J.
DATE : 19TH DECEMBER, 2022.

FINAL ORDER :

. By this petition, petitioners challenge order dated 05th February, 2020 passed by the District Judge – 3, Nanded rejecting petitioners' application for condonation of delay of 06 Years 08 Months 01 Day in filing application for restoration of appeal dismissed on 10.11.2011.

2. The suit was partly decreed on 25.03.2011. Petitioners filed appeal before the District Court, but failed to deposit court fees. This resulted in dismissal of appeal in default on 10.11.2011. The only reason given for condonation of delay is inability of the petitioners to pay court fees on account of the fact that they had left for their native village in search of livelihood. Upon being asked, learned counsel for the petitioners would submit that the amount of Court fees was hardly Rs. 200/-. It is

unbelievable that petitioners did not have Rs. 200/- to be paid towards court fees. The entire approach of the petitioners is lethargic. They did not bother to pay the requisite amount of court fees on the appeal and despite dismissal of appeal way back on 10.11.2011, no steps were taken for its restoration. The reason of petitioners going to their native village in search of livelihood cannot be accepted as it cannot be stated that during the entire period of 06 Years 08 Months 01 Day, petitioners continued at their native places. No particulars are stated in the application as to when did petitioners left for native place and when did they return. Even otherwise it is impossible to believe that petitioners did not have Rs. 200/- to be paid towards court fees.

3. The District Judge has rightly rejected the application. Petition is devoid of merits. Same is dismissed without any orders as to costs.

[SANDEEP V. MARNE, J.]

bsb/Dec. 22