

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

925 CIVIL APPLICATION NO.7727 OF 2019
IN
SAST/14789/2019

TUKARAM PANDU DANDGE AND OTHERS
VERSUS
SUMANBAI KISHANRAO KULKARNI AND OTHERS

.....
Advocate for Applicants : Mr. S.S. Thombre
Advocate for Respondents 1 and 2: Mr. P.N. Sonpethkar
.....

CORAM : BHARAT P. DESHPANDE, J.
DATED : 4th AUGUST 2022

PER COURT:-

1. This is an application for condonation of delay of 231 days caused in filing second appeal.
2. Heard both sides.
3. The applicants are original plaintiffs, who filed R.C.S. No.217 of 2010 which came to be decided by the learned trial court on 29.3.2016. Thereafter, the applicants preferred Regular Civil Appeal No. 148 of 2016 before the District Court at Aurangabad. Vide judgment and decree dated 13.6.2018, the first appellate court dismissed the said appeal.
4. It is the contention of the applicants that after decision of first appellate court, they were not intimated by their counsel appearing

before the first appellate court. They got knowledge of such decision when they contacted their advocate on 17.3.2019. Therefore, on the next day i.e. on 18.3.2019 certified copies were applied. On the same day they received copies. Thereafter, the applicants obtained certain documents which were necessary for filing present appeal and accordingly filed the present application alongwith second appeal on 24.4.2019.

5. Learned counsel for respondent Nos. 1 and 2 objected to the present application on the ground that reasons given in the application are not sufficient enough.

6. The record shows that respondent No.4 died and inspite of giving opportunity his legal representatives are not brought on record. Hence, the matter stands abated against respondent No.4. Respondent No.5 is duly served, however, no one is appearing on his behalf.

7. On considering the reasons disclosed in para 3, 4 and 5 of civil application, such grounds are sufficient enough to condone the delay, as is clear that there is no fault on the part of the applicants in approaching this Court beyond the period of limitation.

8. For the reasons stated above, the application needs to be allowed. Hence, the following order:-

O R D E R

- I. Civil application stands allowed.
- II. Delay of 231 days caused in filing second appeal is hereby condoned. Office to register the second appeal if there are no other objections.
- III. The application stands disposed of accordingly.

(BHARAT P. DESHPANDE, J.)

rlj/