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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.8469 OF 2019

Syed Shahanoor Syed Chand

PETITIONER

VERSUS

Sk. Vazir Amir Maddu (Deceased) and Others

RESPONDENTS

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Mr. Sanket S. Kulharni h/f Mr. Suvidh S. Kulkarni, Advocate for
petitioner

Mr. Rajendra Chavan h/f Mr. V. A. Bagadiya, Advocate for
respondents No. 1 to 6

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 24th AUGUST, 2022

ORDER :

1. The petitioner is aggrieved by the order dated 16th April, 2019 passed by learned District Judge-14, Aurangabad below Exhibit-1 in MARJI No. 375 of 2017, thereby rejecting the application for condonation of 3 years 11 months' delay in filing Miscellaneous Civil Appeal before the District Court.

2. The respondents – plaintiffs filed Regular Civil Suit No. 130 of 2015 for cancellation of sale deeds dated 6th September, 1982 and 21st June, 1983 and for perpetual injunction. By application Exhibit-5, interim injunction is sought. The said application is

partly allowed by order dated 13th December, 2013 by the Trial Court and the defendant is restrained from alienating or in any way transferring the property in Gut No. 63, purchased by him, on the basis of two sale deeds challenged in the suit.

3. Being aggrieved by the order passed by the Trial Court, the defendant filed Miscellaneous Civil Appeal on 24th November, 2017 along with delay condonation application, thereby seeking condonation of delay of 3 years 11 months, in preferring the appeal. The Appellate Court refused to condone the delay and rejected the application. This order is challenged in the present petition.

4. It appears from the record that the petitioner claimed that delay was caused due to ill-health and economic crises. However, nothing is produced on record in support of the said contention.

5. Having heard the learned advocates for the respective parties and considering the fact that the petitioner has failed to substantiate the grounds for delay condonation and as the suit is at the stage of recording of evidence of the plaintiffs, and as the plaintiff has examined two of his witnesses, this Court is not inclined to interfere in the impugned order, in the extraordinary writ jurisdiction, at this stage. However, taking into consideration

the fact that the suit is of the year 2013 and two witnesses of the plaintiffs are already examined, the trial of the suit is expedited. The parties to co-operate in expeditious disposal of the suit. The Trial Court shall dispose of the suit as expeditiously as possible and in any case, within a period of one year from the date of receipt of writ of this order.

6. With aforesaid directions, the writ petition is disposed of.

[NITIN B. SURYAWANSHI]
JUDGE