

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

**CIVIL APPLICATION NO. 9268 OF 2016
IN
SECOND APPEAL (ST.) NO. 22605 OF 2015**

Shripat Mahipat Patil
Died through his legal heirs
Prakash Shripat Patil

.. Applicant

Versus

The Collector of District Jalgaon
and others

.. Respondents

Mr. Y. R. Neb, Advocate h/f Mr. A. B. Kale, Advocate for the Applicant.
Mrs. G. L. Deshpande, AGP for Respondent Nos. 1 and 2.
Mr. Amit A. Mukhedkar, Advocate for Respondent No. 3.

WITH CA/9269/2016 IN SAST/22605/2015

CORAM : BHARAT P. DESHPANDE, J.

DATED : 22nd AUGUST, 2022.

PER COURT:-

1. This is an application filed for condonation of delay of 1897 days caused in filing second appeal.
2. Heard learned counsel for the applicant, learned A.G.P. for respondent Nos. 1 and 2 and learned counsel for respondent No. 3.
3. Learned counsel for the applicant submits that the applicant was not aware about the decision of the civil suit and therefore, he challenged it before the learned First Appellate Court alongwith application for

condonation of delay. The learned First Appellate Court vide impugned order dated 21.12.2010 rejected the application for condonation of delay. He then submits that the applicant is the poor person and was not having resources to file second appeal, failed to approach this Court in time. He then submits that the applicant was not aware about limitation period.

4. Learned counsel appearing for respondent No. 3 filed reply affidavit opposing the application on the ground that reasons given in the present application are not sufficient enough to condone the delay.

5. Learned AGP appearing for the State opposed the application stating that grounds mentioned in the application are not at all sufficient.

6. The record shows that, father of the present applicant by name Shripat filed civil suit No. 34/1989 (old RCS No. 432/1981). Initially, the said suit was decreed partly. It was challenged by respondent No. 3 before the learned First Appellate Court. The said appeal was allowed and the matter was remanded to the learned Trial Court. Though the present applicant was brought on record as one of the legal heir of the original plaintiff, he was not aware about the decision in the civil suit. The judgment was delivered by the Civil Court at Amalner on 26.11.1999. The applicant filed appeal alongwith Miscellaneous Civil Application No. 19/2010 for condonation of delay. The said application for condonation of delay was rejected by the learned First Appellate Court on 21.12.2010. Consequently, the first appeal was also rejected as barred by limitation.

7. The present application for condonation of delay was filed in the year 2015 i.e. after delay of 1897 days. The grounds mentioned in the present application are only two grounds that the applicant was not aware about the period of limitation and that he was not financially well to file appeal. The first ground that he was not aware about limitation cannot be accepted as his application for condonation of delay filed before the learned First Appellate Court was rejected in the year 2010.

8. Secondly, the aspect of finance is concerned, there is nothing mentioned in the application as to when the applicant arranged such finance to file second appeal. The grounds mentioned in the present application are vague and not sufficient enough to condone the inordinate delay. Therefore, the application needs to be rejected. Hence, the following order.

ORDER

- (I) The application stands rejected.
- (II) The parties shall bear their own cost.
- (III) Connected Civil Application No. 9269 of 2016 stands disposed of accordingly.

(BHARAT P. DESHPANDE, J.)

P.S.B.