

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

**CIVIL APPLICATION NO.352 OF 2022
IN RC/1019/2013**

**SHAMSUNDAR MARUTI WADHWANKAR AND ANOTHER
VERSUS
DNYANOBA MAHADU WADHWANKAR AND ANOTHER**

...

Advocate for Applicants : Mr. Kodale Vikas G.
Advocate for Respondent : Mr. S.V. Bhopi h/f. Mr. V. R. Dhorde

...

CORAM : MANGESH S. PATIL, J.

DATE : 01.03.2022

PER COURT :

This is an application seeking restoration of the Second Appeal, the registration of which has been refused for not removing the office objections, with a prayer to condone the delay of 3036 days in filing the Application.

2. I have heard both the sides and perused the papers.

3. It has been mentioned in the application that the appellants were unaware about rejection of the case for want of removal of office objections and when they approached the house of the learned advocate they were informed about his death due to Covid. It is thereafter that they took steps and have now moved this application for condoning the delay.

4. The learned advocate for the respondents submits that all the while the appellants have been lethargic. Even the appeal before the lower court was dismissed for the sole reason of their failure to deposit a meager cost of Rs.200/- in time.

5. The observations of the Supreme Court in the matter of **Rafiq and Ors. Vs. Munshilal and Ors.; AIR 1981 SC-1400** demonstrate that the parties may squarely rely upon the advocates and may not be thereafter in contact with the advocates for want of knowledge. Most of such parties belong to rural areas and would depend upon the advocates with the hope that the advocate would look after the case.
6. This seems to be a case in the matter in hand which is squarely cover by the observations of the Supreme Court.
7. Taking into account the nature of the dispute pertaining to right to an immovable property, for the reasons mentioned in the application, there being sufficient cause the delay deserves to be condoned, however, not without compensating the respondent with sumptuous costs.
8. For the reasons mentioned in the application, it is allowed subject to the following conditions :
 - a) They deposit an amount of Rs.5000/- as a cost within four weeks from today.
 - b) They remove the office objections within two weeks from the date of deposit of cost.
9. Needless to state that on failure to obey either of these conditions, this order shall stand recalled automatically without reference to the Court.
10. The respondent shall be entitled to claim the cost.
11. The appellants shall now assist the office in reconstructing the papers of the Second Appeal.

(MANGESH S. PATIL, J.)