

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

Civil Application No. 6141 / 2000

Alongwith

Civil Application No. 6142 / 2000

in

First Appeal Stamp No. 9212 / 1998

The State of Maharashtra

... Applicant

Versus

Shri. Nayaku Tuka Kadam (since deceased)

Through Legal Heirs Krushna N. Kadam

... Respondents

Mr. A.R. Patil, AGP for Applicant.

Mr. Umesh R. Mankpure, Advocate for Respondent Nos. 1 & 2.

CORAM : SANDEEP K. SHINDE, J.

DATE : 3rd JANUARY, 2022.

P.C.

1. State of Maharashtra through Collector, Sangli moved an application, seeking condonation of 1343 days delay occurred in filing the First Appeal against the judgment and award dated 8th February, 1994 in L.A.R. No. 140/1991, passed by the IInd Joint Civil Judge, Senior Division, Sangli.

2. Heard. Mr. Patil, learned AGP for the State and Mr. Mankapure, learned Counsel for Respondents. Perused the applications.

3. The award impugned was passed on 8th February, 1994; Law and Judiciary Department issued a resolution dated 11th July, 1995 for filing the First Appeal against the impugned award; resolution was received in the office of Government Pleader, High Court, Appellate Side, Mumbai on 12th July, 1995. In the meanwhile, certified copies of the judgment and award were misplaced. Whereafter, again certified copies were obtained on 7th November, 1997. An application was moved on 4th May, 2000, seeking condonation of 1343 days delay occurred in preferring the appeal.

4. However, it appears from the record that the First Appeal was presented on 12th March, 1998 and application for condonation of delay was filed on 4th May, 2000. As a matter of fact and Rule 3A of order 41 of the Code of Civil Procedure (CPC), when an appeal is presented after the expiry of the period of limitation specified therefore, it shall be accompanied by an affidavit, setting forth the facts on which the Appellant relies to satisfy the Court that he had

sufficient cause for not preferring appeal within such time.

5. Be that as it may, in consideration of the averments, the reason for such an inordinate delay is stated to be only due to time consumed in obtaining certified copy of award; approval of Law and Judiciary to issue authorisation to Government Pleader; time spent/ consumed in drafting; time consumed in obtaining certified copy on second time, lacks bonafides. Therefore, in my view, the Applicant has not shown a sufficient cause to condone the inordinate delay over a period of four years caused in preferring First Appeal. For the reasons aforestated, Application is rejected.

(SANDEEP K. SHINDE, J.)