

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.1019 OF 2019
IN
SECOND APPEAL (STAMP) NO.32426 OF 2018**

Manubai Jagannath Phalke since deceased
through legal heirs

1a) Vikas Jagannath Phalke and Ors.

...Applicants/Appellants

Versus

Rajaram Krishna Phalke and Ors.

...Respondents

....

Mr. Manjeet Lotankar i/b. Mr. D.D. Rananavare for the Applicants.

Ms Shraddha Pawar i/b. Mr. Dilip Bodke for the Respondent Nos.1 to 3.

CORAM : ANIL S. KILOR, J.

DATED: 24th JANUARY, 2022.

P.C.:-

1. Heard learned counsel for the respective parties.
2. Mr. Lotankar, learned counsel holding for Mr. Rananaware, learned counsel for the Applicants points out that there is a delay of 7 days in filing the second appeal challenging the judgment and decree dated 15/06/2018 passed by the learned Jt. District Judge, Vaduj, District-Satara in Regular Civil Appeal No.148 of 2012. It is submitted that the Applicants could not file second appeal within limitation due to financial constraints and after arranging the necessary amount, the appeal was

filed. However, the time consumed in arranging the funds, is the cause for delay of 7 days.

3. On the other hand Ms Pawar, learned counsel for the Respondents strongly opposes the application on the ground that though the Applicants are farmers, their financial condition was/is good and in view of the fact that sufficient details have not been given about the date of the application for certified copy and the date of receipt of the certified copy of the impugned judgment and decree, the application may be rejected.

4. After considering the reasons stated in the application and looking to the controversy involved in the present application, in my opinion since the delay is of 7 days, on condonation of delay the party may fight out the case on merits. Moreover, the right of appeal cannot be denied in this case on technical grounds in view of the fact that the satisfactory reasons are shown for delay, and accordingly for the reasons stated in the application, I am of the view that the application needs to be allowed. Accordingly, I pass the following order:-

ORDER

- (i) The application for condonation of delay is allowed;

(ii) The delay caused in filing Second Appeal is condoned.

The office is requested to register the Second Appeal and place the same before the Court for admission.

(ANIL S. KILOR, J.)