

learned counsel for the respondent.

3. On hearing Mr. Kanetkar for the applicants and on perusal of the detailed application, justifying the delay, it can be discerned that the impugned judgment and decree came to be passed by the District Judge, Khed on 18/09/2017 and this is challenged by instituting the second appeal.

4. The applicants have candidly admitted that the certified copy of the judgment dated 18/09/2017 was ready on 10/10/2017, but the intervening events which precluded them from filing the appeal is the engagement of the learned counsel to represent them, who was handed over the papers including the certified copy and the requisite fees and who gave an assurance that the appeal would be filed immediately. The applicants have narrated that the concerned counsel was contacted on phone as the applicant No.1(c), who was looking after the matter, was not keeping well on account several ailments, but on the telephone conversation, the applicants were informed that the second appeal has been filed and it would be coming up for hearing in due course, and they would be informed about the same. However, nothing could be heard for a considerable time, the applicants became restless and they frequently tried to contact the lawyer, who gave evasive replies which constrained applicant No.1(c) to visit Mumbai somewhere, in January/February, 2019. At that time, she gained knowledge about the advocate, who was engaged by the applicants, himself

was arraigned in one criminal case and is absconding. Necessarily, the applicants were constrained to approach another advocate and made over the papers and also paid part fees. Even he assured that the appeal would be filed on the re-opening of the court and he also did not file the appeal and returned the papers in June, 2019. The applicants also state that after the papers were returned by the counsel, applicant No.1(c) underwent a surgery on her eye and was not permitted to travel. The medical papers to that effect are placed on record. This events drained the funds available with the applicants, to institute the appeal and, therefore, they have to collect the funds again to knock the doors of the court. Ultimately, in view of the past experience of the applicants, they approached a local advocate at Khed, who has contacted the present advocates in Mumbai and the appeal came to be filed.

5. Perusal of the aforesaid reasons as contained in paragraphs Nos.4 to 8 of the application, offers sufficient justification which *prima facie* appears to be *bona fide*. Though no explanation is required for every day's delay, it is sufficient if the delay is explained by a plausible reason and here is a case where the applicant is a resident of Khed, District Ratnagiri and for whom, Mumbai is not only distance-wise away, but also at a distance as far as legal assistance is concerned and, *bona fide*ly relied upon the advocate at Mumbai, who assured that the appeal would be filed. The trite position of the law being that for fault on the part of the lawyer, the clients cannot be made to suffer and since the

application sets out *bona fide* grounds, justifying the delay, I deem it expedient to condone the delay.

6. The learned counsel for the respondent has vehemently opposed the application and submits that it lacks *bona fide*, particularly, when it is projected that applicant No.1(c) was the only lady, who was taking care of the appeal and whatever explanation is offered in the application is as regards the steps taken by applicant No.1(c) whereas, no explanation is offered as to why the other applicants, who are the heirs of Balkrishna Pawar, have not taken any steps.

7. Considering the aforesaid objection, I do not deem it sufficient to defeat the claim set out in the application, particularly when the application is supported by the documents about the ailments of applicant No.1(c) and since it is the specific case of the applicants that it is applicant No.1(c) who was taking care of the litigation, the delay of 1 year and 267 days deserves condonation.

8. Necessarily, the interim application is allowed in terms of prayer clause (a).

9. The Registry is directed to register the appeal. The appeal shall be listed for admission on 19/04/2022.

[SMT. BHARATI DANGRE, J.]