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

WRIT PETITION 7020 OF 2022

Hanmant Bandu Patil ... Petitioner
Versus
Shankar Bhau Patil and Ors. ... Respondents

Mr. Kalpesh U. Patil for the Petitioner.
None for the Respondents.

**CORAM: ROHIT B. DEO, J.
DATE : 27th JUNE, 2022**

P.C. :-

. The challenge is to the order dated 6th October, 2021 whereby the Ad-hoc District Judge-1, Karad has condoned the delay of four months and four days and two months and two days *qua* applicant 1 and applicant 2 respectively, in preferring appeal challenging the judgment and decree in Regular Civil Suit 182 of 2012 whereby the suit for specific performance is decreed.

2. It is not in dispute that the applicants who sought condonation of delay are the owner of the property, albeit, they have purchased the property during the pendency of the suit.

3. The applicant 1 who then was 78 years contended that he is suffering from severe diabetes and high blood pressure and was constrained to depend on applicant 2 to mount the challenge to the judgment of specific performance. Applicant 2 was under treatment from 10th June, 2017 to 17th June, 2017 and then was advised to complete bed rest for three weeks.

4. The parties were directed to lead evidence on affidavits under Order XIX Rule 1 of the Code of Civil Procedure, 1908. It appears that the applicants and the non-applicant did file their respective affidavits. However, neither the applicants nor the non-applicants in the application seeking condonation of delay were cross-examined.

5. The learned Appellate Court has considered the certificate issued by Dr. Anil Bhattad, which reads thus :-

“10. The applicants have relied upon the affidavits of applicant no.02 whereas the respondents have relied upon the affidavit of respondent no.01. Affidavit of applicant no.02 is supported with certificate issued by Dr. Anil Bhattad dated 13/07/2017 to the effect that, applicant no.2 was under treatment during period in between 10/06/2017 to 17/06/2017 for diabetes mellitus hypertension and was advised for bed rest during period in between 17/06/2017 to 08/07/2017. In view of certificate of Dr. Anil Bhattad, I do not find any reason to disbelieve the case of the applicants that applicant no.02 was ailing and was advised to bed rest during period in between 10/06/2017 to 08/07/2017.”

6. The other relevant observations appear in paragraphs 12, 13 and 18.

7. I am satisfied with a reasonable view is taken by the Appellate Court who has found just and sufficient cause for the inability to approach the Appellate Court within the period of limitation.

8. In writ jurisdiction, I see no reason to interfere, the petition is dismissed.

[ROHIT B. DEO, J.]