

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.132 OF 2019
IN
REVIEW PETITION (ST.) NO.2523 OF 2019

Nana Laxman Gavali] ... Applicant

Vs.

Motiram Hari Jadhav (since] ... Respondents
deceased), through His LRs & Ors.

...

Mr. Dhananjayrao D. Rananaware for the appellant.

...

CORAM : SMT. BHARATI DANGRE, J.

DATED : 14TH MARCH, 2022.

P.C. :-

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1. By the present civil application, delay of 203 days in preferring the review petition against the order dated 05/06/2018 in Second Appeal No.102 of 2015 is sought to be condoned.
2. Heard the learned counsel for the applicant and perused the application. The reasons for delay are sought to be justified on the

ground that the applicant is an illiterate person and a tribal, residing in a remote village and he was under the impression that the matter was pending before the Hon'ble Supreme Court and was not aware of its summary dismissal. In paragraph No.10 of the application, the applicant has narrated the steps taken by him to collect the documents, which were required to be called from the concerned advocate in Delhi.

3. Considering the reasons cited in the application, I am satisfied that the delay deserves to be condoned. Accordingly, Civil Application No.132 of 2019 is allowed.

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4. Heard the learned counsel for the petitioner and perused the impugned judgment and order dated 05/06/2018 in Second Appeal No.102 of 2015.

5. The suit came to be filed by the petitioner seeking specific performance, which was partly allowed by the trial court and though his claim for specific performance came to be rejected as it was barred by limitation and the knowledge was attributed to the petitioner in the year 1980 itself, his possession came to be protected by the said order. The impugned judgment specifically records that the suit for specific performance was barred by limitation, since the petitioner himself has admitted in cross-

examination that in the year 1980 itself, he got the knowledge that the respondent has refused to execute the sale deed. On this ground, particularly when the possession of the petitioner was protected under Section 53A of the Transfer of Property Act, the learned Judge arrived at a conclusion that no substantial question of law is involved in this case. This conclusion was coupled with a finding being recorded that if the land is being transferred to a tribal to a non-tribal, the restriction imposed under Section 32 of the Maharashtra Land Revenue Code will come into play. Thus, the second appeal came to be dismissed by the order dated 05/06/2018.

6. Against this order, a special leave petition came to be filed before the Hon'ble Apex Court, which was also dismissed on 27/08/2018. In the wake of the above, when the second appeal was not entertained since it did not involve any substantial question of law and in the wake of the findings rendered that the suit for specific performance was, rightly, barred by law of limitation and the suit being not filed within the limitation, the suit was dismissed and the second appeal also came to be dismissed. With the order being upheld, by refusing to entertain the special leave petition by the Apex Court, the review petition does not deserve any consideration and is dismissed as such.

[SMT. BHARATI DANGRE, J.]