

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO.296 OF 2021
IN
SECOND APPEAL (STAMP) NO.3155 OF 2021
ALONG WITH
INTERIM APPLICATION NO.297 OF 2021

Shriram Revji Fokane] ... Applicant

Vs.

Kantabai Ramhari Gulve & Ors.] ... Respondents

...

Mr. Gurudas S. Gorwadkar for the applicant.

Mr. Rohit P. Mahadik with Mr. Rushikesh Bhagat i/b
Khandeparkar & Associates for respondent No.1.

Mr. Sarfaraj Shaikh i/b Mr. Sachin S. Gite for respondent Nos.2
and 4.

Mr. Nachiket Khaldkar h/f. Mr. P.D. Patil for respondent Nos.12,
13 and 15.

...

CORAM : SMT. BHARATI DANGRE, J.

DATED : 26TH APRIL, 2022.

P.C. :-

1. By the present application, the delay of 371 days in instituting the appeal, is sought to be condoned.
2. Heard Mr. Gorwadkar, the learned counsel for the applicant, Mr. Mahadik, the learned counsel for the contesting respondent No.1, Mr. Shaikh, the learned counsel for respondent Nos.2 and 4 and Mr. Khaladkar, the learned counsel for respondent Nos.12, 13 and 15. On perusal of the application, which offers an explanation for the delay, it can be seen that the impugned judgment and order is passed on 04/11/2019 and on 20/12/2019, the applicant filed a writ petition vide Writ Petition No.643 of 2020. It was listed on three occasions and on 09/03/2020, the ad-interim relief was also granted. At a subsequent point of time, it was brought to the notice that a second appeal will lie against the impugned order and not the writ petition. Accordingly, the steps were initiated for obtaining necessary copies of the impugned order and necessary documents.
3. However, since the lockdown was declared, the applicant was restrained from instituting the second appeal. This has occasioned the delay, which in my opinion, is *bona fide* and since the applicant was prosecuting a remedy before the wrong court, delay needs to be condoned. Hence, the application is made absolute in terms of prayer clauses (a) and (b).

4. Upon the delay being condoned, let the appeal is directed to be registered and be listed for admission on 27/06/2022.

[SMT. BHARATI DANGRE, J.]