

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

**INTERIM APPLICATION NO. 499 OF 2020
ALONGWITH
INTERIM APPLICATION NO. 497 OF 2020
IN
SECOND APPEAL (ST) NO. 896 OF 2020**

Bhimrao Narayan Patil (since decd.
Thr. LRs.) Vasant @ Shashikant
Bhimrao Patil and Ors.

...Applicants

vs.

Dhondi Hari Patil (since decd.
Thr. LRs.) Pandurang
Dhondiram Patil and Ors.

...Respondents

Mr. M. B. Deshmukh - Advocate for the Applicants

CORAM : S. M. MODAK, J.

DATE : 19th JULY, 2022

P. C. :-

INTERIM APPLICATION NO. 499 OF 2020

1. Heard the learned advocate for the applicants/deed holders. The suit of partition was decreed and during the execution filed by them, the Court Commissioner was appointed. He gave the report as to how, the City Survey Land is to be partitioned. The Executing Court has passed an Order on application of the deed holder on 29/08/2013. They were aggrieved and that is how they have preferred Regular Civil Appeal No. 12 of 2014 which was dismissed on 19/09/2019. Certified copy was applied

on 20/09/2019 that is next date and it was delivered on 14/10/2019. The Appellants could not prefer an appeal within mandatory period for want of funds and collecting the certified copy of the Trial Court and Appellate Court Judgments under Section 96 of the Civil Procedure Code. That is how there is a delay of three days.

2. This Court feels that delay can be condoned even without issuance of the notice considering fact that it is only for three days and even today it can be condoned by imposing cost. Court has taken this view for the reason that it will take time for issuance of notice and hearing delay condonation application. Otherwise also this is second round of litigation. Earlier there was First Appeal under Section 96 and secondly this is First Appeal against the Order of the Executing Court. Hence the delay is condoned subject to deposit of cost of Rs. 1000 to be paid to the Respondents within two weeks.

3. Interim Application No. 499 of 2020 is disposed of.

4. Second Appeal (ST) No. 896 of 2020 be listed for admission after above compliance and office scrutiny.

5. The Second appeal be listed for admission on 27/07/2022.

[S. M. MODAK, J.]