

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

**CIVIL APPLICATION NO.744 OF 2018
WITH
CIVIL APPLICATION NO.745 OF 2018
IN
SECOND APPEAL (STAMP) NO.9086 OF 2018**

Tanaji Gopala Nikam (deceased
through Lrs)-
1a Smt. Sarubai Tanaji Nikam and
Ors.

...Applicants/Appellants

Versus

Babasaheb Yashwant Patil and Anr.

...Respondents

....

Mr. Prasad Avhad for i/b. Mr. Kuldeep Nikam for the Applicants.
None for Respondents.

CORAM : ANIL S. KILOR, J.

DATED: 24th JANUARY, 2022.

P.C.:-

1. Heard Mr. Avhad, learned counsel for the Applicants. None for the Respondents though served.

2. Mr. Avhad, learned counsel for the Applicants submits that there is a delay of 267 days in filing the second appeal challenging the judgment and decree dated 20/02/2017 passed by the learned District Judge-1, Islampur in Regular Civil Appeal No.89 of 2006. He submits that immediately after receiving the certified copy of the impugned decree

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they had contacted their Advocate for advice as regards the filing of second appeal. Thereupon, he had referred them to the present Advocate and on contacting the present Advocate, it was noticed that some more documents are required and they were not readily available with the Applicants. They had made the same available. However, in the meantime the original Applicant (original Defendant) -Tanaji died and because of the mental trauma suffered by the Applicants, further steps could not be taken in the matter and as such, delay of 267 days has been caused in filing the second appeal.

3. After going through the reasons stated in the application, more particularly in paragraph 10 onwards, I am of the considered view that in absence of any reply of rebuttal or disputing the facts stated in the application, sufficient cause has been shown for condonation of delay. In that view of the matter I pass the following order:-

ORDER

- (i) The application for condonation of delay is allowed;
- (ii) The delay caused in filing Second Appeal is condoned.

The office is requested to register the Second Appeal and place the same before the Court for admission.

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(ANIL S. KILOR, J.)