

Shiv

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.4471 OF 2010
IN
FIRST APPEAL (STAMP) NO. 28853 of 2010

Arjun Balaji Nigade & Ors. ...Applicants
Versus
Sanjay Kachardas Mutha & Ors. ...Respondents

Mr Mandar Limay, *for the Appellant/Applicants.*
Mr Ashok Tajane, *with R B Jagtap for Respondent Nos 1, 2, 4 & 5.*
Mr Sumit S Kate, *for Respondent Nos 3(c), 4(b).*
Mr Mahendra Agavekar, *with Shraddha Chavan for Respondent Nos
6 to 13, 18 and 19.*
Mr Sarthak Diwan, *i/b A M Kulkarni, for Respondent No 17.*

**CORAM G.S. Patel &
 Madhav J. Jamdar, JJ.**
DATED: 3rd February 2022

PC:-

1. Heard Mr Limaye for the Applicants. The prayer is for condonation of a delay of 493 days in filing this First Appeal. There is an Additional Affidavit in support of the Application. Although the computation in the prayer is 493 days, it appears that the actual delay is far less, of about 53 days. The impugned order is dated 21st November 2009. The Applicants sought a certified copy on 23rd November 2009. This was received on 11th June 2010. The present

Civil Application was filed on 26th October 2010 by which time the Appeal had been lodged. The reason for this delay of 53 days is explained in the Additional Affidavit. We are satisfied that the delay is unintentional. We condone the delay and make the Civil Application absolute in terms of prayer clause (a).

2. We also note that there are companion First Appeals that have already been admitted. This is an additional reason to grant the Applicant the relief.

3. Mr Tajane states that there is a dispute as to heirship between one or more of the Respondents. That is a matter that will be considered at an appropriate stage. It has no relevance to the question of condonation of delay on Mr Limaye's Application.

4. As to appearance on behalf of substituted Respondent Nos 3(c) and 4(b) we are informed that the Advocates have returned the papers. Once again we make no observation in this regard. It is for the Advocate who filed Vakalatnama to obtain a proper and valid discharge in accordance with rules. Until then it is clear that the Vakalatnama continues to hold. We leave it to the Advocate to take appropriate steps in that regard.

5. All concerned will act on production of a digitally signed copy of this order.

(Madhav J. Jamdar, J)

(G. S. Patel, J)