

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

CIVIL APPLICATION NO.415 OF 2019

IN

SECOND APPEAL (STAMP) NO.35620 OF 2018

Dhanayya Gurushantayya Swami

...Applicant

Versus

Malayya Irayya Swami and Ors.

...Respondents

....

Mr. Abhijit Dilip Kulkarni for the Applicant.

Mr. Samir Kumbhakoni for Respondent No.1.

Mr. Anvil Kalekar for Respondent Nos.2 to 7.

CORAM : ANIL S. KILOR, J.

DATED: 28th JANUARY, 2022.

P.C.:-

1. Heard Mr. Kulkarni, learned counsel for the Applicant, Mr. Samir Kumbhakoni, learned counsel for Respondent No. 1 and Mr. Anvil Kalekar, learned counsel for Respondent Nos. 2 to 7. None for the Respondent No.8, though served.

2. Learned counsel for the Applicant submits that there is a delay of 155 days in filing Second Appeal challenging the judgment and decree dated 05/04/2018 passed by the learned Principal District Judge, Solapur in Civil Misc. Application No.1 of 2018.

3. It is submitted that the Applicant is an aged person and has taken advice of an Advocate at Solapur about preferring the appeal and

challenging the impugned judgment and order. Thereupon the learned Advocate on 03/05/2018 advised him to file appeal. Thereafter to search an Advocate, time was consumed and after contacting the Advocate, he asked for some more documents, which were supplied later on after obtaining the same. However, in this process time which was consumed, is the reason for causing delay in filing the appeal.

4. Learned counsel for the Respondents jointly oppose the application and press for dismissal of the same.

5. After going through the application and the reasons stated in the application, I am of the opinion that in absence of any reply opposing the present application or disputing the facts stated in the application, the reasons stated in the application for condonation of delay are sufficient to condone the delay in filing the second appeal. Accordingly, 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.

(ANIL S. KILOR, J.)