

Pooja K.

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 4660 OF 2019
WITH
CIVIL APPLICATION NO. 4663 OF 2019
IN
SECOND APPEAL (ST) NO. 4647 OF 2019

Kailas Gangadhar Bramhane	... Applicant
<i>Versus</i>	
Gangadhar Vithoba Bramhane and Ors.	... Respondents

...
Mr. K.N. Shermale – Advocate for Applicant
Mr. A.S. Bajaj – Advocate for Respondent Nos.1 to 4
....

CORAM : GAURI GODSE, J.
DATE : 20th February, 2023

PER COURT :

CIVIL APPLICATION NO. 4660 OF 2019

1. This Civil Application is filed for condonation of delay of 75 days in filing the Second Appeal.
2. Notice was issued in the Civil Application. As per office remark all the respondents are served.
3. Mr. A.S. Bajaj – learned counsel appearing for respondent nos.1 to 4 opposes the application on the ground that, no sufficient

reasons are given in the application. He states that, reasons given are not satisfactory for condonation of delay.

4. Learned counsel for the applicant states that, in paragraph nos.2 and 3 of the application specific grounds are raised explaining that why delay has been caused in filing the Second Appeal. He submits that, no reply affidavit is filed controverting the reasons given.
5. I have perused the reasons given in the application, reasons appear to be condonable. For the reasons stated in the paragraph nos.2 and 3 of the application, delay for filing application is condoned.

SECOND APPEAL (ST) NO. 4647 OF 2019

6. Second Appeal is taken up for admission. Heard. The Second Appeal is admitted on the following substantial questions of law:
 - a) Whether reversal of the finding recorded by the trial court on the point of gut no.324 being self acquired property of the plaintiff is on the basis of proper appreciation of evidence on record ?

- b) Whether the first appellate court being a last fact of finding court, has reversed the findings of trial court in respect of gut no.324 on proper appreciation of evidence on record as admittedly sale-deed in respect of gut no.324 is in the name of plaintiff and there is evidence on record that the plaintiff had independent source of income and was residing separately ?
- 7. Mr. A.S. Bajaj – learned counsel appearing on behalf of respondent nos.1 to 4 waives service.
- 8. Call for record and proceedings.
- 9. Printing is dispensed with.
- 10. The appellants to file private paper book containing judgments of both the courts, first appeal memo, pleadings, notes of evidence and exhibited documents, within a period of one year from today.

CIVIL APPLICATION NO. 4663 OF 2019

- 11. Issue notice on prayer clause 'B' returnable after six weeks.
- 12. Mr. A.S. Bajaj – learned counsel appearing on behalf of

respondent nos.1 to 4 waives service.

13. Issue notice to rest of the respondents, returnable after six weeks. In addition to court notice, the applicants shall serve respondents by private service and file service affidavit before next date.
14. Interim relief granted on 8th April, 2019 to continue till next date.

[GAURI GODSE]
JUDGE