

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CIVIL APPLICATION NO.2734 OF 2020
IN AOST/6996/2020**

**SATYANARAYAN DHONDIBA LOHIYA
VERSUS
TUKARAM GOVIND RATHOD SINCE DECEASED THROUGH L.RS.
GANPAT TUKARAM RATHOD AND OTHERS**

...
Advocate for Applicant : Mr. Kadam Prasad Balasaheb
Advocate for Respondent Nos. 1/2, 1/4, 1/5, 1/6, 1/7, 1/8 : Mr. M.P.
Bhaskar

...
CORAM : S.G. MEHARE, J.

DATED : SEPTEMBER 04, 2023

PER COURT:-

1. Heard learned counsel for the applicant and learned counsel for the respondents.
2. This is an application for condonation of 2076 days in preferring the appeal from order rejecting the application filed by the applicant before the learned District Judge for condonation of delay for restoring the original application for condonation of delay. The learned District Judge disbelieved the reasons mentioned in the application for condonation of delay and dismissed the application on 18.03.2014.
3. Herein the application, the applicant has come with a case that the applicant is old aged and his family members were facing medical problems. Therefore, he could not give proper

attention towards the proceedings. It has also been pleaded that the applicant could not immediately contact the Advocate representing him before the learned District Judge. In addition thereto, he was unaware of the order passed. Hence, he could not collect necessary documents.

4. Learned counsel for the respondents would submit that the applicant has falsely pleaded that he is a old age man. In nomenclature his age was 48 years. He would submit that the reasons for condonation of delay are imaginary and concocted. He would also argue that similar were the reasons in an application for restoration of delay condonation application. He had blamed the lawyer for not informing him about his change of the place of practice. Again, similar grounds have been raised that he could not contact his lawyer representing him in the District Court. The conduct of the applicant is unnatural. The reasons are not within the purview of law, much less reasonable and proper. The decree was passed long back. He had filed execution proceedings for recovery of earnest money and it is still pending.

5. It seems that the reasons assigned for the delay are very casual and even does not seems probable. Only for the sake of pleading, the grounds have been raised. Section 5 of the Limitation Act deals with the condonation of delay. The delay should be beyond

the control of the person approaching the Court and the grounds must be reasonable. It must be sufficient and proper.

6. Considering the grounds for delay, the Court is not satisfied that those are in the perview of Section 5 of the Limitation Act. The application is hopelessly time barred without any justifiable reasons. Hence, the application stands dismissed.

(S.G. MEHARE, J.)