

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

**935 CIVIL APPLICATION NO.4756 OF 2023  
IN SAST/11224/2023 WITH CA/4757/2023 IN  
SAST/11224/2023**

**TUKARAM NIVRUTTI DAGALE AND OTHERS  
VERSUS  
DEVARAM NIVRUTTI DAGALE AND OTHERS**

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Advocate for Applicants: Mr. Ajay T. Kanawade  
Advocate for Respondent No.1: Mr. R. D. Bhalerao  
Advocate for Respondents No.2&3A: Mr. V. S. Undre

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**CORAM : ARUN R. PEDNEKER, J.**

**DATE : 31<sup>st</sup> JULY, 2023**

**PER COURT:**

1. The Civil Application No.4756 of 2023 is filed for condonation of delay of 334 days in filing the second appeal.

2. The learned counsel for the applicants submits that they were ex-parte before the first appellate court and were not aware of the judgment passed by the first appellate court. They became aware of the judgment when execution proceedings were initiated. In view of the same, the delay is caused in filing the second appeal.

3. The learned counsel appearing for the respondents opposes to prayer made and he submits that the father of the appellants had appeared in the matter and that the appellant ought to have knowledge about the judgment passed by the appellate court. Since the appellants being the children from the second wife their independent rights would be defeated. The application for condonation of delay is to be considered in the fact situation.

4. The appellants were ex parte. It is not their case that they were aware and the second appeal filed is deliberately delayed.

5. In view of the same the application for condonation of delay is allowed and disposed of.

6. List this matter on 11.09.2023.

[ARUN R. PEDNEKER, J.]

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