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CA 11982.19 IN RAST 14850.19.odt

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

**CIVIL APPLICATION NO.11982 OF 2019
IN RAST/14850/2019**

**NILESH RAMESH SHETKAR AND ANOTHER
VERSUS
RAMESH SHANKAR SHETKAR AND OTHERS**

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Advocate for Applicants :Mr. Kiran M. Nagarkar
Adv. for Respondents: Mr. B.V. Bhavthankar.

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CORAM : S.G. CHAPALGAONKAR, J.

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**Reserved on : 23rd June, 2023
Pronounced on : 30th June, 2023**

ORDER :-

By this application, the applicant is seeking to condone the delay of 1131 days caused in filing the review application thereby seeking review of the order dated 23.2.2016 passed by this Court in Second Appeal No. 137 of 1966.

2. The contention of the applicant is that in view of the observations made by this Court in order dated 15.2.2019 passed in W.P. No.14418 of 2018, he felt if necessary to file Review Application in respect of the order dated 23.3.2016 passed in Second appeal No.137 of 2016. Thereafter, he preferred this application along with application under review and seeks to condone the delay. Pertinently, the applicant do not state that he was aggrieved by the order passed in Second appeal No. 137 of 2016 any point of time. Perhaps, the order passed in Second

Appeal confirms the decree passed in favour of the applicant in R.C.S. No. 9 of 2005. As such, the petitioner has no reason of getting aggrieved by the order passed in Second Appeal.

3. In fact, the applicant is executing the decree passed in his favour in R.C.S. No. 9 of 2005 in R.D. No. 33 of 2015. Therefore, from the reasons, as stated in the civil application, sufficient cause is not made out to condone the huge delay of 1131 days.

4. Even otherwise, Section 114 of C.P.C. prescribes that any person considering himself aggrieved by the decree or order from which the appeal is allowed under C.P.C., may file review application. The similar phraseology appears in Order 47 Rule 1 of C.P.C. which permits a person considering himself to be aggrieved to file review application.

5. In the present case, Second Appeal was filed by the respondents aggrieved by decree in R.C.S. No. 9 of 2005 and confirmed by the First appellate Court. This Court, after considering the rival submissions dismissed the Second Appeal and confirmed the decree passed in favour of the applicant. In that view of the matter, the applicant cannot be treated as an aggrieved person and as such, he is not entitled to file the review application. Apparently, the applicant has already filed an application under Section 152 of the Cr.P.C. for correction in the decree that was passed by the trial court in his favour. He has also secured a favorable order. However, in the writ petition filed by the respondents it is subjected to challenge. In that view of the matter, even on merits, no ground is available for review. Hence, there is no merit in the application. Same is hereby dismissed. However, it is made clear that,

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rejection of this application shall not be impediment for applicant to prosecute any other remedies permissible under law.

[S.G. CHAPALGAONKAR]
JUDGE

grt/-