

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

**SECOND APPEAL NO.411 OF 2023
WITH CA/9479/2023 IN SA/411/2023**

**NATTU S/O. NARAYAN BHOJNE (TIRMALI)
VERSUS
SHRAWAN NARAYAN MULE DIED THROUGH LRS SMT.
SHENPHADABAI SHRAWAN MULE**

...
Advocate for Appellant : Mr. Laxman Vishnu Sangit

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CORAM : S.G. MEHARE, J.

DATED : OCTOBER 16, 2023

PER COURT:-

1. Heard learned counsel for the appellant.
2. The suit for specific performance of contract was filed against the appellant. The suit summons were sent, but the appellant refused. Therefore, the suit proceeded exparte and decree for specific performance of contract was passed against him on 22.07.2005.
3. Learned counsel for the appellant would submit that one of the legal heirs of the plaintiff in R.C.S. No.186 of 2000 had filed a suit in the year 2014 bearing R.C.S. No.23 of 2014. The appellant was the defendant to that suit. When he had gone through the papers and documents, he learnt in the year 2014 that the decree for specific performance of contract was passed against him on 22.07.2005. He then immediately impugned the said Judgment and decree along with the delay condonation application contending that from the date of

knowledge, the delay was of 16 months. However, the learned District Judge rejected the application for condonation of delay.

4. Learned counsel for the appellant would submit that the appellant had no knowledge about the Judgment and decree passed in Civil Suit No.186 of 2000 dated 22.07.2005. This was the only ground raised for the condonation of delay. It has been tried to argue that the cause of action to prefer the appeal reckoned in the year 2014, the delay was not longer.

5. The law prescribes that the limitation to impugn the Judgment and decree begins to run from the date of the Judgment and decree. That apart, there shall be convincing reasons restraining the party from approaching to the Court. Having no knowledge of passing the impugned Judgment and decree does not inspire confidence that it was a plausible reason. The appellant had refused the suit summons of R.C.S. No.186 of 2000.

6. In view of the facts of the case, the Court did not find any substantial question of law has been involved in this appeal. Hence, the appeal stands dismissed at the admission stage.

7. Civil Application No.9479 of 2023 stands disposed of.

(S.G. MEHARE, J.)