

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

**14 CIVIL APPLICATION NO.2541 OF 2019
IN FAST/19200/2018**

**TILAKCHAND LALMAN JANGADE (DIED) THR LRS KISHOR
VERSUS
PRATAP BHAGATSING CHOUDHARI AND ORS**

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Advocate for Applicants : Mr. B.V. Thombre h/f Mr.Sable Bhagwan R.

Advocate for Respondent No. 1 : Mr.P.D. Bachate

Advocate for Respondent No. 3 : Mr.Kulkarni Shripad S.

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CORAM : KISHORE C. SANT, J.

DATE : 07.09.2023.

PER COURT :

1. Heard the parties for some time. This application is filed seeking condonation of delay of 1294 days caused in filing of the First Appeal in this Court. The learned District Judge has passed the judgment on 24.09.2014. The same is sought to be challenged. It is the case of the applicant that his father had filed Civil Appeal bearing No. 44 of 2009, who was looking the affairs of the Trust. His father died on 30.09.2015 and by that time the impugned judgment was already passed. It is his further case that his father had never told him about the proceedings and he had no knowledge of the judgment and

order. He came to know about the judgment only in the month of May, 2018, when he had been to the office of the Assistant Charity Commissioner, Jalna. He was informed in the office that Regular Civil Appeal came to be decided long back. Thereafter, the applicant obtained certified copies of the judgment and order and approached to this Court.

2. The learned Advocate Mr. Bachate submits that infact the father of the applicant had no concern with the trust. Even the present applicant is not concerned with the trust. In the matters of trust there is no question of legal representative in individual capacity and thus, the applicant has no right to file an appeal etc.

3. This Court finds from the application that the impugned judgment and order passed on 24.09.2014, the father of the applicant was alive till 30.09.2015. There are no averments that even the father had no knowledge of the impugned judgment and order. It may be that the father was aware, still has choosen not to file an appeal. In any case, it was necessary to state that even the father of the applicant had no knowledge of the impugned judgment and order. The

appellant was challenging the judgment and order passed by the ACC, Jalna in the proceedings under Section 50A (I) of the Bombay Public Trust Act for framing the scheme.

4. Thus, on that point, this Court finds that the right of the applicant is not heritable right. The dispute is not in respect of the property or any other right heritable in succession. The applicant certainly has other remedies available in respect of the affairs of the trust if he has aggrieved. With the above reasons, this Court finds that no case is made out for condonation of delay. The Civil Application stands dismissed.

(KISHORE C. SANT)
JUDGE

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