

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

**40 CIVIL APPLICATION NO.13603 OF 2022
IN SAST/24338/2022**

**SUSHILA RAM KARANDE
VERSUS
DNYANOBA VITHAL HAKE AND OTHERS**

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Advocate for Applicants : Mr.Dharashive Mahishankar L.
Advocate for Respondent No. 1 : Mr. S.T. Jadhav h/f Mr.Suryawanshi
Prashant D.

Advocate for Respondent Nos. 2/1 to 2/3 : Mr. B.N. Patil

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CORAM : KISHORE C. SANT, J.

DATE : 03.11.2023.

PER COURT :

1. Heard the applicant. It is a case of the applicant that for four years she was absconding and therefore she was not having knowledge of the judgment and decree passed by the appellate Court. The Court has accepted the theory that the present appellant/original plaintiff has relinquished her share in the property, which in the submissions of the applicant is not correct. He thus, submits that since the property rights are involved, delay deserve to be condoned as the applicant is a lady.

2. The learned Advocate for the respondent vehemently opposed the application stating that there is no sufficient reason stated in the application to condone the delay. However, considering that the applicant is a lady, fighting for her share and it is seen that the trial Court had decreed the suit holding that applicant is entitled to receive her 1/3rd share in the property. In the appeal the said decree is modified and now she is taking share of 1/9th share. This Court finds that she should get a fair chance to contest an appeal. Considering the above, application is allowed subject to payment of costs of Rs. 5,000/- (Rs. Five Thousand Only) to be paid to respondent Nos. 2/1 to 2/3 equally within a period of four weeks from today as condition precedent. With this the Civil Application is allowed and disposed off.

(KISHORE C. SANT)
JUDGE

mahajansb/