

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

933 CIVIL APPLICATION NO.11660 OF 2023
IN CRAFT/28049/2023

VITHALRAO NAGORAO PATIL
VERSUS
VITHALRAO SANGRAMAPPA PATIL AND OTHERS

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Advocate for Applicant : Mr. Taher Ali Quadri.

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CORAM : S. G. MEHARE, J.
DATE : 21.09.2023

PER COURT :-

1. Heard the learned counsel for the applicant.
2. This Civil Application is filed for condonation of delay of 139 days for preferring the revision against the order below Exh.14, dated 17.01.2023 in RCS.No.315 of 2022, rejecting the application under Order VII Rule 11 of the CPC.
3. Learned counsel for the applicant would submit that the cause of action pleaded in the plaint was imaginary and it was a sort of clever drafting. In fact from the date so pleaded, the plaintiff had no cause of action. The sale deed which has been challenged was too old. Therefore, the suit of the plaintiff was barred by the limitation.

4. To bolster his argument, he relied on the case of *Ramisetty Venkatanna and another Vs. Nasyam Jamal Saheb and others ; 2023 LiveLaw (SC) 372*.

5. As far as the delay is concerned, it has been pleaded that the certified copies were received on 19.01.2023. However, due to old age, the applicant was not keeping well; hence, he was under frequent treatment. He could not able to visit and contact his advocate since January 2023 till 04.06.2023. Hence, he was not able to know about passing of the impugned order. When he went to the office of the counsel on 14.06.2023, he learnt about the impugned order. Hence, the delay of 139 days caused for filing the revision application was not intentional and deliberate.

6. This Court has also examined the impugned order. An application for rejection of the plaint under Order VII Rule 11 of the C.P.C. was filed on the ground that the suit of the plaintiff was barred by limitation. The Court relying upon the various pronouncements of the Hon'ble Supreme Court appears to have correctly observed that the plaintiff with regard to the knowledge of the essential facts giving rise to the cause of action as pleaded viz. to have accepted as correct. The impugned order is well reasoned supported with the judicial

pronouncement. This exercise has been done to testify the bonafide of the applicant for delay condonation.

7. After having gone through the reasons for delay, it does not inspire that it was probable. The certified copy of the impugned order was received next two days after passing the impugned order. This indicates that the applicant had prepared his mind to impugn the order. But, he did not take show deligency. The reasons for the delay though claimed is ill health, but appears to be not genuine. By the impugned order rejecting the application under Order VII Rule 11, no harm would be caused to the present petitioner/applicant. The Court has to avoid the multiplicity of the litigation and see that the system has to deliver the timely justice.

8. For the above reasons, the civil application stands dismissed. No order as to costs.

(S. G. MEHARE, J.)

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vmk/-