

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

CIVIL APPLICATION NO. 15803 OF 2016
IN SA/78/2010 WITH CA/620/2023 IN SA/78/2010
WITH CA/621/2023 IN SA/78/2010

RUKMINIKANT BALSISHANRAO JOSHI AND OTHERS
VERSUS
SHRIRANG DATTATRAYA UPADHE(DIED) LRS GODAWARI
UPADHE AND OTHERS

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Advocate for Applicants : Mrs. H. H. Waghmare
Advocate for Respondent Nos. 1/2 to 1/9 : Mr. R.R. Kazi
h/f. Mr. P.R. Katneshwarkar

CORAM : R.M. JOSHI, J.
DATE : 19th April, 2023

PER COURT :

1. This application is for condonation of delay of 275 days in setting aside order of dismissal of Second Appeal for want of prosecution.

2. It is the contention of the applicants that for want of knowledge of said order from Advocate appearing on behalf of respondents, application could not be filed in time.

3. Learned counsel for respondent nos. 1/2 to 1/9 vehemently opposed the application by contending that the explanation given for condonation of delay is not satisfactory. He further states

that if the appeal is restored, then the injunction shall again start running against the respondents. He, therefore, seeks urgent hearing of the appeal, if the Court is inclined to restore the same.

4. Learned counsel for the applicants records her consent for early hearing of the appeal in the month of July, 2023.

5. Perusal of the application shows that the delay caused in filing application for restoration is not deliberate. No malafides can be attributed to the applicants for not filing application in time. In the interest of justice, application is allowed in terms of prayer clause 'a' and 'b', subject to costs of Rs. 2,000/- be deposited within a period of two weeks. Costs be paid to the contesting respondents.

6. If costs is not deposited within a period of two weeks, this order stands vacated without further reference to the Court.

7. By consent of both sides, keep for final hearing on 06th July, 2023.

[R.M. JOSHI, J.]