

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

**CIVIL APPLICATION NO.15742 OF 2022
IN SAST/29218/2022 WITH CA/15743/2022 IN
SAST/29218/2022**

**LAXMIBAI GANGARAM KANADE DIED LRS. THROUGH GPA
AND ORS.**

VERSUS

SHAKUNTALABAI BHANUDAS GAIKWAD AND ANOTHER

...

Mr. M. M. Ambhore, Advocate for Respondent Nos.1 and 2.

...

CORAM : S. G. CHAPALGAONKAR, J.

DATE : 20th JULY, 2023.

PER COURT:-

1. By this application, the applicants seek to condone the delay of 8549 days caused in filing the Second Appeal.

2. It appears from the record that on 02.01.2023, this Court (Gauri Godse, J.) directed that application will be heard alongwith the Second Appeal and parties were put to the notice that Second Appeal will be heard for admission. The applicants were also directed to satisfy as to how the Second Appeal can be filed in the name of the dead person through Power of Attorney. Thereafter, on 03.01.2023 the request was made on behalf of the applicants to adjourn the matter. This Court had posted the matter on 17.01.2023. However, on that day it was informed on behalf the applicants that the their learned Advocate has filed leave note and time was sought. This Court expressed displeasure and noted unfair conduct of the learned Advocate for

the applicants. On 31.01.2023, again request was made on behalf of the learned Advocate appearing for the applicants to adjourn hearing stating that his brother is hospitalized. The matter was adjourned to 14.02.2023 with direction to place it high on board. Again on 14.02.2023, the learned Advocate appearing for the applicants had filed leave note and sought adjournment. On 08.03.2023 the matter was placed on board, however, it could not be heard and then on 02.05.2023 the submissions were advanced on behalf of the applicants on merit. When this Court shown disinclination to consider the prayer for condonation of huge delay, the time was sought. The matter was accordingly adjourned at the request of the learned Advocate appearing for the applicants. Even, thereafter, this matter was taken up on board on 11.07.2023, 12.07.2023, 13.07.2023 and 14.07.2023. Noting the absence of the learned Advocate appearing for the applicants, the matter was kept back in first session and called out in the second session. However, none appeared before the Court.

3. Mr. Ambhore, learned Advocate appearing for the respondents made his submissions on merit as well as the application for delay condonation and points out that the applicants had knowledge of impugned judgment and decree, but failed to file appeal in time. The delay is inordinate without plausible explanation.

4. In view of the above, it is apparent that the applicants are killing time. One more important aspects needs to be noted here is that the present application is filed through General Power of Attorney of deceased Laxmibai w/o Gangaram Kanade,

who was original party in the proceedings. Laxmibai died in the year 1993. The Bhikabai Fakira Bhujang was her General Power of Attorney and she has given further General Power of Attorney in the name of Padmabai w/o Bhagwan Suryanarayan, who is now prosecuting this application. Apparently, such application is not maintainable. Even otherwise, there is no plausible explanation to condone the huge delay of 8549 days caused in filing this appeal.

5. In that view of the matter, civil application are dismissed alongwith appeal.

6. In view of the dismissal of Civil Application No.15742/2022 and the Appeal, Civil Application No.15743/2022 is also disposed of.

(S. G. CHAPALGAONKAR)
JUDGE