

Harish

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO.2430 OF 2023
IN
SECOND APPEAL (ST) NO.3339 OF 2023**

1. Ramchandra Tatya Zambre
(Since deceased through LR's)

a. Bayakka Ramchandra Zambre & Ors. ...Applicants

Versus

1. Pandurang Tatya Zambre
(Since deceased through LR's)

a. Indubai Pandurang Zambre & Ors. ...Respondents

Mr. Anilkumar K. Pati, for the Applicants.

Mr. Sejal A. Hariyan i/b P. Padmanabh & Associates, for the Respondents.

CORAM : MADHAV J. JAMDAR, J.

DATE : 14th JUNE, 2023

P.C.:

1. Heard Mr. Patil, learned counsel appearing for the Applicants and Ms. Hariyan, learned counsel appearing for the Respondents.

2. This Interim Application is taken out for condonation of delay. There is delay of 3 years and 20 days in filing the Second Appeal. Mr. Patil, learned counsel appearing for the Applicants submitted that, the impugned order of the learned First Appellate Court is dated 5th October, 2019. He submitted that, the

Applicants were not aware about the limitation period to file the Second Appeal as well as in the meanwhile due to COVID pandemic no steps could be taken by them.

3. Ms. Sejal, learned counsel appearing for the Respondents submitted that, the order of the learned First Appellate Court is dated 5th October, 2019 and therefore, the reason given regarding the COVID pandemic is not relevant. It is the submission of the learned counsel appearing for the Respondents that, the reason given in paragraph No. 6 by the Applicants that, they were new to the procedural part is not correct. Therefore it is the contention of learned counsel appearing for the Respondent that, the Interim Application is liable to be dismissed.

4. Perusal of the contents of the Interim Application, shows that although, the impugned order of the learned First Appellate Court is dated 5th October, 2019, however sufficient reasons are set out in the Interim Application for the condonation of delay.

5. Although I am inclined to condone the delay, the Applicants are required to pay cost to the Respondents.

6. Therefore, the Interim Application is allowed in terms of prayer clause (a) on the condition that, the Applicants to pay cost of Rs. 10,000/- to the Respondents and the same will be accepted by Respondent No. 1(b) on behalf of all the Respondents. The said cost be paid within a period of four weeks from today.

7. The Interim Application is disposed of in above terms with no order as to costs.

(MADHAV J. JAMDAR, J.)