

Nikita

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

**CIVIL APPLICATION NO.445 OF 2020
IN
SECOND APPEAL (ST.) NO.19096 OF 2019
WITH
CIVIL APPLICATION NO.446 OF 2020
IN
SECOND APPEAL (ST.) NO.19096 OF 2019**

Babu Maruti Kamble (since deceased)
Thr. LRS Sambhaji Babu Kamble and
Ors.

... Appellants

V/s.

Kisabai Natha Kamble

... Respondent

Mr. Ramdas A. Shelke for the Applicant.

CORAM : AMIT BORKAR, J.

DATED : DECEMBER 21, 2023

P.C.:

1. The applications are filed for condonation of delay of four years and 101 days in filing second appeal. The Appellate Court by the impugned decree granted injunction against appellants from disturbing respondents possession over the suit property. The Appellate Court passed a decree on 29 December 2014. The appellants have filed present appeal on 28 June 2019 .

2. According to the applicants, their car met with an accident on 11 March 2014, due to injury the financial condition became

worse. It is only after the compromise was entered into, the applicant could file appeal. It is also stated that the applicants are suffering from various ailments. The applicants father died on 19 June 2016. Therefore, according to applicants they furnished sufficient cause for delay in filing second appeal.

3. The reasons in the applications are not sufficient to condone the delay of four years and 101 days, particularly in view of nature of decree passed against the applicants. The decree impugned restrains the appellants from disturbing defendants possession over the suit property. If the appellants claim title over the suit property, if it is permissible in law, it will always be open for the appellant to adopt appropriate proceedings against the respondent for possession of property. However, reasons stated in the application, it cannot be termed as sufficient cause.

4. The civil applications is, therefore, rejected. No costs.

5. In view of rejection of civil application, resultantly second appeal stands disposed of.

6. All other pending interim applications stands disposed of as infructuous.

(AMIT BORKAR, J.)