

Arjun

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

**INTERIM APPLICATION NO.30070 OF 2022
IN
SECOND APPEAL (ST) NO.27498 OF 2022**

Dilkhush Shahir Sawant & Anr. ...Applicants

In the matter between :

Dilkhush Shahir Sawant & Anr. ...Appellants

V/s.

Suresh Bhanudas Babar & Ors. ...Respondents

Mr. Sandesh Shukla i/b Manisha Sawant, for the Applicants.

Ms. Bhavika Shinde a/w Umesh Mankapure, for the Respondents.

**CORAM : MADHAV J. JAMDAR, J.
DATED : AUGUST 9, 2023**

P.C.:

1. Heard Mr. Shukla, learned counsel appearing for the Applicants and Ms. Shinde, learned counsel appearing for the Respondents.

2. The Interim Application is taken out for condonation of delay of 3 years and 64 days in filing the Second Appeal. However, perusal of the record shows that the impugned

judgment and decree of the learned First Appellate Court is dated 6th June 2019 and the present Second Appeal has been filed on 10th November 2022. Due to Covid-19 pandemic, the Supreme Court had suspended the limitation period from 15th March 2020 till 28th February 2022.

3. It is the contention of learned counsel appearing for the Applicants that the Applicant No.2 is 78 years old and suffering from various diseases. He relied on the medical certificate showing the same.

4. Ms. Shinde, learned counsel appearing for the Respondents strongly opposes the Interim Application. She states that the Applicant No.1 could have taken steps in filing Appeal. She further submitted that the impugned judgment and decree of the learned First Appellate Court is dated 6th June 2019 and the Covid-19 pandemic had started in March 2020 and, therefore, explanation given by the Applicants is not proper.

5. However, perusal of the medical certificate shows that since 2019, the Applicant No.2 is 78 years old and suffering from various diseases including heart disease. In the Application it has been stated that the Applicant No.1 is

required to look after Applicant No.2.

6. Therefore, for the reasons set out in the Interim Application, the same is allowed in terms of prayer clause (d) subject to payment of cost of Rs.10,000/- to be paid to the Respondents within a period of four weeks from today.

7. The Interim Application is disposed of in above terms with cost.

[MADHAV J. JAMDAR, J.]