

Pallavi

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

**CIVIL APPLICATION NO.1216 OF 2016
IN
SECOND APPEAL (ST) NO.2335 OF 2016**

Shri. Shivaji Ganpati Mohite alias
Chougule (Deceased Thr. Legal Heirs)
Smt. Bharati Shivaji Mohite @ Chaugule and Ors. ... Applicants
Versus
The State of Maharashtra and Anr. ... Respondents

- Mr. Sachin K. Hande a/w Amit D. Sale, for the Applicants.
- Mr. A.R. Patil, AGP for the Respondent No.1 – State.

**CORAM : MADHAV J. JAMDAR, J.
DATE : 20th MARCH 2023**

P.C. :

1. Heard Mr. Sachin Hande, learned counsel appearing for the Applicants and Mr. A.R. Patil, AGP appearing for the Respondent No.1. None appears for the Respondent No.2 though served.
2. This Civil Application is taken out for condonation of delay of about 2 years and 121 days in filing the Second Appeal. The impugned judgment and decree of the learned First Appellate Court is dated 24th June 2013 and the Appeal was filed on or about 21st January 2016.

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3. Mr. Hande submitted that the original applicant – Shivaji Ganpati Mohite @ Chougule was suffering from chronic diabetes which affected his health. He submitted that due to chronic diabetes the delicate filtering structures and blood vessels within the kidneys of the Appellant got damaged. The kidneys were not functioning properly and effectively and therefore, the Appellant was under dialysis and in fact, was advised kidney transplant. Due to same, he was also diagnosed with high blood pressure. He submitted that the present Second Appeal along with Civil Application for condonation of delay was filed on 21st January 2016 and the original Applicant/Appellant passed away on 28th December 2016. Therefore, delay be condoned.

4. Mr. Patil, AGP opposed the application, however, as sufficient cause is made out, application is allowed in terms of prayer clause (a). Interim Application is accordingly disposed of.

5. Second Appeal be listed for admission on 19th June 2023.

[MADHAV J. JAMDAR, J.]