

SA Pathan

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

SECOND APPEAL (ST) NO.2975 OF 2020

**WITH
INTERIM APPLICATION NO.2142 OF 2020
IN
SECOND APPEAL (ST) NO.2975 OF 2020**

**WITH
INTERIM APPLICATION NO.2079 OF 2020
IN
SECOND APPEAL (ST) NO.2975 OF 2020**

Vikram Keru Nawale	... Applicant
V/s.	
Ramchandra Shankar Mulik	... Respondent

Mr. Sushant Prathune, for Applicant/Appellant.

CORAM : AMIT BORKAR, J.

DATED : DECEMBER 15, 2023

P.C.:

1. The applicant/original defendant is seeking condonation of delay of 4 years, 25 days in filing second appeal, arising out of decree of recovery of amount of Rs.2,74,200/- along with interest @ 9% per annum.
2. The respondent filed Special Civil Suit No.7/2002 for

recovery of amount. The Trial Court decreed the suit.

3. The applicant filed Civil Appeal No.147 of 2012. The Appellate Court on 21 October 2015 dismissed the appeal.

4. The applicant has filed present appeal on 12 February 2020.

5. The explanation furnished by the applicant is that, he was in serious financial crisis which led to depression. The applicant was facing criminal trial in the suit transaction from 2009 to 2015. Therefore, after getting some amount, he approached the Advocate in the year 2017. The Advocate advised him to file a suit challenging the decree passed in Special Civil Suit No.7 of 2002 instead of challenging order in Civil Appeal No.147 of 2012. The applicant, therefore, filed civil suit challenging decree passed for recovery of amount. The civil suit was rejected by order dated 6 February 2018 under Order 7, Rule 11 of the Code of Civil Procedure, 1908. The applicant was again advised to file Civil Appeal No.40 of 2018 challenging dismissal of suit which in turn challenged decree passed in Civil Suit No.7 of 2002. The applicant filed Civil Appeal No.40 of 2018 challenging order passed by the Trial Court rejecting plaint of subsequent suit. However, the Advocate withdrew the appeal and advised the applicant to challenge the decree passed in Civil Appeal No.147 of 2012 before this Court.

6. The reason assigned by the applicant offers no explanation for period on 27 October 2015 till filing of suit setting aside decree passed in earlier suit except stating that the applicant was in financial crisis which led to depression. The proceedings of

challenging decree passed in earlier suit and filing of appeal against dismissal of such suit under Order 7, Rule 11 of the Code of Civil Procedure, 1908 cannot be termed as bona fide proceeding under Section 14 of the Limitation Act, 1963. Therefore, reason stated in the application for condonation of delay, explained delay of 4 years, 25 days cannot be termed as sufficient cause. Therefore, the application for condonation of delay is rejected. Resultantly, the second appeal stands dismissed.

(AMIT BORKAR, J.)