

Harish

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

**CIVIL APPLICATION NO. 408 OF 2019
IN
SECOND APPEAL (ST) NO. 14061 OF 2018**

Kondabai Dinkar Shinde
Deceased Through Legal Heirs
1. Babaso Kinkar Shinde & Ors.

...Applicants

Versus
Kisan Bhau Shinde

...Respondent

Mr. D. D. Rananaware, for the Applicants.

Mr. Venkatesh Shastry i/b Ms. Athalye, for the Respondents.

CORAM : MADHAV J. JAMDAR, J.

DATE : 8th MARCH, 2023

P.C.:

1. The Civil Application is taken out to condone the delay of 6 years and 71 days in filing the Second Appeal.

2. The Judgment and Decree of the learned First Appellate Court is dated 23rd November, 2011 and the present Second Appeal has been filed on 13th April, 2018.

3. It is the contention of Mr. Rananaware, learned counsel appearing for the Applicants that, the Review Application has been filed in 2011 and the same has been decided on 23rd June,

2013. He further submitted that, the Applicant No.1 who is looking after this matter suffered a severe paralytic stroke and he has not recovered from the same. Therefore the delay.

4. It is significant to note that, no date of illness of said Applicant No. 1 is given, no medical record is produced. It is specifically stated in the Application that the Applicant No. 1 is suffering from paralysis for couple of years and he has not recovered from the same and he is almost bed ridden. The Second Appeal along with Civil Application seeking delay condonation was filed in April 2018. Thus it can be assumed that Applicant No. 1 suffered paralytic stroke in 2016.

5. Therefore, assuming that there is some explanation for a period of 2016 onwards however, there is no explanation for the period of 2013 till 2016.

6. Therefore, no sufficient reasons are furnished for condonation of delay.

7. The Civil Application is dismissed however, without any order as to costs.

(MADHAV J. JAMDAR, J.)