

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.18501 OF 2022
WITH
INTERIM APPLICATION NO.22910 OF 2022
IN
APPEAL FROM ORDER (ST) NO.22908 OF 2022

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Ankush Sakharam Amle and Others ...Appellants

VS.

Bhima Ganpat Mandlik and Others ...Respondents

Mr. Chaitanya Nikte a/w. Mr. Prajit Sakhane, for the Appellants.
Mr. Hemant Ghadigaonkar, for Respondent Nos. 1 and 2.
Mr. A.R. Patil, AGP for Respondent Nos. 3 and 4.

CORAM : N. J. JAMADAR, J.

DATE : JULY 20, 2023

P.C.:

1. Heard the learned counsel for the parties.
2. This is an application for condonation of delay in preferring the appeal against the order dated 17th January, 2022 passed by the learned District Judge in Regular Civil Appeal No. 44 of 2019 restraining the applicants/respondent Nos. 1 to 10 and 13 to 18 from making any further construction of shed in the subject land.
3. In the application, it is averred that the delay occurred as the applicants had initially preferred Writ Petition assailing the said order and subsequently the said petition came to be withdrawn on 15th July, 2022 with liberty to prefer an appeal.
4. The respondents resisted the application by contending that

the appeal came to be filed after about two months of the withdrawal of the Writ Petition and hence there is no sufficient cause.

5. It seems that the applicants invoked a wrong remedy bonafide. The applicants are entitled to the benefit of the provisions contained in section 14 of the Limitation Act.

6. In any event, the delay does not seem to be inordinate. To advance the cause of substantive justice, the delay deserves to be condoned.

7. Hence, the application stands allowed.

8. The delay in preferring the appeal stands condoned.

9. Application disposed.

10. Appeal be listed for admission on 3rd August, 2023.

(N. J. JAMADAR, J.)