

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

**Civil application (CAS) No.91 of 2021 In
Second Appeal St. No.1155 of 2021**

Sushma W/O Raghunath Sanghi And Others Vs Jaydeo S/O Dewaji Meshram And Others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri Dr. R.I. Agrawal, Advocate for the Applicant/Appellant
Shri A.M. Gedam, Advocate for the respondent No.1

CORAM : ANIL S. KILOR, J.

DATE : 12th April 2023

1. Heard.
2. This is an application for condonation of delay of 1275 days in filing second appeal.
3. After going through the application, I have found that sufficient cause and reasons are given by the applicants for condoning the delay, the same are as under:

On 01.03.2005, the suit for specific performance was filed by the plaintiff, immediately, within nine days i.e. on 10.03.2005, the defendants sold out the suit land to the present applicants and by virtue of the same, the mutation entry in the name of the applicants was carried out on 11.08.2008. Admittedly, despite the fact that the suit land was sold out by the defendants to the applicants on 10.03.2005, the applicants were not joined as party to the suit. Even after the mutation was carried out, the applicants were not made party to the suit.

4. Nothing has been brought on record by the non-applicants to point out that, the applicants had knowledge about pendency of the suit.

5. The suit was decreed on 26.10.2010 and in pursuance of the same, the plaintiff moved an application for correcting the mutation entry and first time, a notice for the same was served upon the applicants on 04.01.2021, whereupon, the applicants got knowledge about the decree. Thereafter, within 15 days, the present appeal came to be filed.

6. Considering the dates of events referred herein above, I am of the opinion that the delay caused in filing second appeal needs to be condoned.

7. The learned counsel for the non-applicants opposes the application on the ground that the day to day explanation has not been offered.

8. The Hon'ble Supreme Court of India, in the case of *Collector, Land Acquisition, Anantnag and another Vs. Mst. Katiji and Others*¹, has observed thus:

“3. ... 3. “Every day’s delay must be explained” does not mean that a pedantic approach should be made. Why not every hour’s delay, every second’s delay ? The doctrine must be applied in a rational common sense pragmatic manner.”

9. In view of the above referred judgment, I do not find any substance in the objection raised by the respondent No.1.

1 (1987) AIR (SC) 1353

10. Accordingly, the application is **allowed**. Delay caused in filing the second appeal is condoned. The Second appeal be registered.

11. The application is **disposed of** accordingly.

[ANIL S. KILOR, J.]