

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CIVIL APPLICATION (CAF) NO. 1818 OF 2021
IN
FIRST APPEAL (ST.) NO. 10847 OF 2021

VIJAYA WD/O. MADHUKAR DURGE AND ORS.

...**VERSUS**...

SHRI BHARAT S/O. DATTATRAY JOG AND ORS.

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Shri Anil Sonare, Advocate for appellants/applicants.

CORAM : SMT. M. S. JAWALKAR,J.

DATE : 16th JUNE, 2023

The present application is filed by the appellants/applicants for condonation of delay in filing First Appeal.

2. It appears that though the notice through RPAD is issued to the respondents, it is returned back unserved with postal remark 'unclaimed'. As such, it is a due service on the respondents.

3. There is delay of 841 days in filing First Appeal. It is submitted that the order passed by Joint Charity Commissioner, Nagpur dated 12/02/2019 in Application No. 35/2018 under Section 47 of the Maharashtra Public Trust Act, 1950 is under challenged. It is further submitted that the ancestor of appellants i.e. Shri Govind Annaji Durge had possessed considerable agricultural property in village Kahili at Tah. Bramhapuri. He expired in the year 1966 and after his death, his wife Smt. Janki Govind Durge was looking after the Trust as Wahivatdar. The said family Trust was having

agricultural property. During the lifetime of Jankibai, there were proceedings initiated for framing of scheme and also for appointment of Trustees before Charity Commissioner, Nagpur and vide order dated 22/08/1974, the Trustees came to be appointed. The widow Jankibai Durge died in the year 1987 and as such, after her death, son Vinayak Durge was looking after the Trust being elder son of Govindrao Durge. The said Vinayak married with Sarojani and after her death, he had performed second marriage with Sulbha Jog in the year 1985. The said Sulbha Jog was divorcee and also having one son by name Bharat Jog from her first husband. As such, Bharat Jog was not having any connection with the Trust. In spite of this position, keeping in dark all the members, he obtained the order from Charity Commissioner.

4. In the month of November, 2020, some of the relatives residing adjoining to village Kahili came to the house of Madhukar Durge after his death to meet the members of his family as they got an information regarding death of Madhukar Durge. At that time only, the appellants got knowledge regarding the existence of property in village Kahili. Thereafter, taking search and inspection of Talathi record, they preferred an application before Talathi for certified copies. In view thereof, delay of 841 days is caused.

5. I am satisfied that the delay is neither intentional nor deliberate and it caused due to bonafide and justifiable reasons. As such, I am inclined to allow the application. Delay in filing First Appeal is hereby condoned.

6. Registry is directed to register the First Appeal.

7. Accordingly, the application stands disposed of.

FIRST APPEAL (ST.) NO. 10847 OF 2021

Issue notice to the respondents, returnable within three weeks.

(Smt. M.S. Jawalkar, J.)

B.T.Khapekar