



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

918 SECOND APPEAL NO. 108 OF 2022

Smt. Laxmibai Eknath Dhumal (died)
Through LRs

1. Laxmibai @ Sumanbai Bapu Shelar
2. Manda Pandurang Sasane

VERSUS

1. Pandurang Khandu Jagtap,
2. Bhau Khandu Jagtap,
3. Raosaheb Khandu Jagtap,
4. Laxmibai Pandurang Jagtap,
5. Navnath Pandurang Jagtap,
6. Rohidas Bajirao Darkunde,
7. The Secretary,
8. Lilabai Dadasaheb Gawade,

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Mr. R.S. Kasar – Advocate for Appellants

Mr. S.S. Kulkarni and Mr. D.B. Rode – Advocate for Respondent
Nos.1 to 5

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CORAM : SANDIPKUMAR C. MORE, J.

DATE : 14th March, 2024

PER COURT :

1. Heard finally at admission stage.
2. The Second Appeal is directed against the order of learned First Appellate Court i.e. District Judge – 2 at Shrigonda passed on 11.10.2021 whereby the application filed by the present appellants, who are original plaintiffs, for condonation of delay filed alongwith the First Appeal has been dismissed. It was observed that, the delay around four years and six months was inordinate and remained unexplained for want of sufficient cause. However, it appears that by rejection of such delay condonation application the First Appeal of the appellants had also disposed of consequentially. As such, the valuable statutory right of the appellants to challenge the impugned decree of the learned Trial Court appears to be curtailed.
3. The only substantial question of law involves in this appeal is that, whether the learned First Appellate Court fails to consider the delay condonation application liberally. This Court as well as Hon'ble apex Court has already observed in

number of cases that, the delay condonation applications are to be dealt liberally. As such, the learned First Appellate Court could have allowed the delay condonation application of the appellants by imposing certain cost by observing their conduct.

4. In view of the same, the Second Appeal stands allowed at admission stage and the order dated 11.10.20221 passed by the learned First Appellate Court in Civil Miscellaneous Application No.9 of 2021 is hereby quashed and set aside subject to cost of Rs.50,000/- (rupees Fifty Thousands only) to be paid by the appellants to the respondents within one month.

5. After deposit of cost the learned First Appellate Court is directed to hear the appeal of appellants.

6. Second Appeal is accordingly disposed of alongwith pending Civil Application, if any.

[SANDIPKUMAR C. MORE]
JUDGE