



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**CIVIL APPLICATION NO. 9167 OF 2023  
IN SAST/12887/2023**

Ramnath Shivram Talpade .. Applicant

Versus

Walabai Keru Shilkande .. Respondent

Mr. S. S. Dixit, Advocate for the Applicant.  
Mr. S. K. Shinde, Advocate for Respondent.

**CORAM : R. M. JOSHI, J.**

**DATE : 24<sup>th</sup> JANUARY, 2024.**

**PER COURT :-**

. This application is for condonation of delay of 292 days caused in preferring second appeal against the judgment and decree passed in R.C.A. No. 70/2008 dated 25.03.2022 and in R.C.S. No. 216/2003 dated 24.07.2008. The applicant claims that for want of knowledge of passing of the impugned judgment and decree and he was unable to contact his advocate, this resulted in causing of delay in preferring appeal.

2. The learned counsel for the respondent opposes the application by contending that delay is not satisfactorily explained. Without prejudice to this it his submission if this Court is inclined to allow the

application, heavy cost may be imposed.

3. The dispute is between brother and sister in respect of immovable property. In such circumstances unless malafides can be attributable to the applicant, the delay caused in preferring appeal deserves to be condoned. There is nothing shown by the respondent to indicate that her position is changed irreversibly by delay and condonation thereof. However, having regard to the fact that, respondent is lady aged about 70 years, applicant to pay cost of Rs. 5,000/- (Rs. Five Thousand only) to her. The payment of cost would be precondition for registration of the second appeal.

4. The learned counsel for the applicant makes a statement that the cost would be paid/deposited within a period of two (02) weeks from today.

5. In view of the above, the application is allowed and disposed of accordingly.

6. It is clarified that, if the cost is not paid or deposited within the stipulated period, this order shall stand vacated and the application shall stand dismissed.

**( R. M. JOSHI, J. )**

PS.B.