



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

910 CIVIL APPLICATION NO. 410 OF 2014
IN SAST/20124/2013

Ganpati Sakharam Awachar

VERSUS

Radhabai Sakharam Magar And Ors

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Advocate for Applicant : Mr. B.S. Kudale

Advocate for Respondents 1 to 9: Mr. P.S. Agrawal

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CORAM : KISHORE C. SANT, J.

Dated : July 04, 2024

PER COURT :-

1. Heard.
2. The application is filed for condonation of delay of 385 days caused in filing the second appeal.
3. The application is hotly contested by learned advocate Mr. Agarwal. He submits that this application is filed only after decision of a suit i.e. R.C.S. No. 103/2009 by the Court of learned C.J.S.D., Hingoli dated 17.6.2013. He submits that the Court has decreed the said suit in his favour, observing that no appeal is filed against the judgment and order impugned in the present second appeal. He, thus, submits that now the finding is crystallized in view of the non filing of the appeal against the impugned judgment and award. Only to overcome that hurdle, now the applicant has filed this application and the appeal. If this appeal is kept pending here, that will have considerable effect on the judgment in appeal, challenging the decree in R.C.S. No. 103/2009.
4. Mr. Kudale, learned advocate relies on the judgment reported as **2015 (2) Mh.L.J. 870 in the case of Ware's Educational Trust and Anr. Vs. Subhash**

Bhagwan Khedkar & Anr. and judgment reported as 2012 (1) Mh.L.J. 168 in the case of **Bhausahab s/o. Hiranman Mokale and Ors. Vs. Laxman Shankar Gaikwad**. In both these judgments, this Court has considered the judgments of the Hon'ble Supreme Court and has held that while considering the application for condonation of delay, the Court has to adopt liberal approach.

5. This Court finds that in the present case, the reasoning given is that the applicant though resident of Hingoli, has shifted to Nashik for his livelihood and occasionally comes to Hingoli and therefore, he could not get immediate knowledge of the impugned judgment.

6. Considering the above, this Court is inclined to allow the application. Hence, the order.

ORDER

(i) The application is thus allowed, subject to cost of Rs.2500/-, to be paid to the Legal Services Authority, Sub-Committee, Aurangabad. The delay of 380 days caused in filing the appeal is condoned. Office to register the second appeal. The application stands disposed of.

(KISHORE C. SANT, J.)

ssc/