



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

**902 APEAL FROM ORDER NO. 32 OF 2024
WITH
CIVIL APPLICATION NO. 10967 OF 2024
IN AO/32/2024**

**PURBHA S/O TULSA @ TULSHIRAM DHUTDE
AND OTHERS**

VERSUS

**MOHAMME JAFAR S/O SHAIKH ISMAIL
THR. GPA HOLDER SHAIKH FAISAL SHAIKH SALIM**

...
Advocate for Applicants : Mrs. M. A. Kulkarni
...

**CORAM : S. G. CHAPALGAONKAR, J.
Dated : November 22, 2024**

PER COURT :-

1. Heard Mrs. M.A. Kulkarni, learned Advocate appearing for the appellants.
2. The appellants take exception to the order dated 15.07.2023 passed in MA (RJE) No. 150/2021, by which, the prayer of condonation of delay of 13 years 11 months and 13 days in filing application for restoration of appeal has been rejected by learned District Judge.
3. The appellants filed the Regular Civil Appeal No. 89/2024 before District Judge, Nanded, against decree dated 25.06.2024 in RCS No. 456/2002. However, said appeal came to be dismissed for want of prosecution by order dated

21.11.2007. The appellants filed application for restoration of the appeal along with the application for condonation of delay. There was delay of about 13 years 11 months and 13 days in filing application seeking restoration of RCA no. 89/2004. The reasons mentioned in the application are that appellant no. 1 is old aged person, he was suffering from Asthma and Bronchitis and he was taking the medical treatment.

4. In support of such contention nothing has been placed on record. Particularly, there is nothing to show that for all long 13 years 11 months and 13 days of delay period, he was under medical supervision. So far as defendant no. 2 is concern, he died on 15.01.2021. However, there is nothing on record to show his illness and no reason is placed on record as to why for 13 years, he could not approach the Court and file the application for restoration. The material on record demonstrates that the appellants were prosecuting various legal remedies in respect of the dispute and they were aware about the procedure of law. Learned District Judge appropriately considered the aforesaid aspect and found that there is absolutely no explanation for inordinate delay of 13 years 11 months and 13 days for preferring application for restoration of the appeal.

5. In that view of the matter, there is no merit in this appeal from order. Appeal from order stands dismissed. Civil Applications is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE