



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

935 CIVIL APPLICATION NO. 577 OF 2022
IN SAST/31511/2021
WITH
SAST 31511 OF 2021

Ramchandra Nathu Koli Deceased Lrs. Tulsabai Ramchadra
Koli Lrs. Vijay Ramchandra Koli And Ors.

VERSUS

Vaijantabai Alias Vatsalabai And Another

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Advocate for Applicant : Mr. R.K. Ashtekar h/f Bali Harish S.

Advocate for Respondents : Mr. Nilesh N. Desale

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CORAM : S. G. CHAPALGAONKAR, J.

Dated : November 19, 2024

PER COURT :-

1. By this application, the applicants seeks to condone the delay of 7301 days caused in filing the second appeal.

2. The applicant is original defendant in a suit filed by the respondent seeking decree of partition and separate possession. Trial Court decreed the suit vide judgment and order dated 16.10.1998 against father of the appellant. Since that decree was ex-parte, in appeal it was set aside and matter was remanded back for fresh decision. After remand again on 3.8.1999 the suit was partly decreed. The RCA No.18 of 1999 filed before the District Court against the judgment and decree of the trial court has been partly allowed and decree of the trial court is modified.

3. Now appellants seeks to challenge the aforesaid judgment and decree of appellate Court dated 31.8.2001. Hence second appeal is filed alongwith the application seeking to condone the delay of 7301 days.

4. The only reason that is employed to explain the aforesaid delay is that, the applicant got knowledge of the decree when he filed writ petition no.9792 of 2014 which has been decided on 2.2.2017. According to him, he was advised to file the appeal after dismissal of the writ petition.

5. Apparently, there is absolutely no explanation for the inordinate delay. It appears that, father of the applicant was pursuing appeal before the District Court. The application is silent about date of death of father. It is reported that even the decree is partly executed. The precept was transmitted to the Collector under section 54 of the Civil Procedure Code.

6. In that view of the matter, no case is made out to condone the delay. Even on merits, no substantial question of law arises for consideration. In that view of the matter, the application is dismissed. Consequently, second appeal is also disposed off.

(S. G. CHAPALGAONKAR)
JUDGE

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