



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

**CIVIL APPLICATION NO. 13126 OF 2023
IN SAST/13183/2021**

Vijay Shantaram Chinchole

.. Applicant

Versus

Pundlik Bhika Chaudhary
Since deceased through his legal heirs
Shanubai Pundlik Chaudhary and others

.. Respondents

Mr. Amol S. Mali, Advocate h/f Mr. D. S. Bagul, Advocate for the
Applicant.

CORAM : R. M. JOSHI, J.

DATE : 24th JANUARY, 2024.

PER COURT :-

. This application is for condonation of delay of 553 days caused in seeking restoration of Second Appeal (Stamp) No. 13183 of 2021 which came to be dismissed by Registrar's order dated 09.03.2022 and restoration thereof.

2. According to the applicant, the learned advocate could not attend the Court for removal of office objections on account of his ill health. It is claimed that, there was no intention/motive in not removing the office objections in time.

3. The learned counsel for the applicant submits that, no notice was issued to other side and respondents are not required to be heard for the purpose of condonation of delay and restoration of the appeal. The suit is for specific performance of contract. According to him, having regard to the nature of dispute, delay deserves to be condoned and the second appeal needs to be restored.

4. The applicant is unsuccessful plaintiff. By not removing office objections and preferring application for restoration of the second appeal in time, he would not have gained anything. Thus, no malafides can be attributed to the applicant for not filing application in time. Hence, in the interest of justice, delay of 553 days stands condoned. The second appeal is restored to its original position.

5. The learned counsel for the applicant undertakes to remove office objections within a period of two (02) weeks from today. If office objections are not removed within a period of two (02) weeks, the matter shall stand dismissed without further reference to the Court.

6. The present civil application is disposed of.

(R. M. JOSHI, J.)

P.S.B.