



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

996 WRIT PETITION NO. 5677 OF 2023

Badrunissa Shaikh Hussain

VERSUS

Vishwanth Narayan Bhole And Other

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Advocate for the Petitioner : Mr. Dhorde Pramod P.

Advocate for Respondents No.1 to 7 : Mr. Subodh P. Shah

Advocate for Respondent No.8 in WP/7349/2023: Mr. Navin S. Shah h/f Mr.
S. S. Patil

Advocate for Respondent No.7 in WP7349/2023 : Mr. N. V. Dhake

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**WITH
CIVIL APPLICATION NO. 3305 OF 2024
IN WP/7349/2023**

**WITH
WRIT PETITION NO. 7349 OF 2023**

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CORAM : ARUN R. PEDNEKER, J.

Dated : August 16, 2024

PER COURT :-

1. Heard learned Counsel for both sides.
2. The application for condonation of delay in filing the first appeal has been filed. The applicants, who are third parties, have also moved an application for leave to file an appeal as third parties under Order 41 Rule 1, read with Section 96 of the Code of Civil Procedure, against the judgment and decree passed in Regular Civil Suit No. 440/1979 on 10/02/2003 by the Civil Judge, Junior Division, Jalgaon.
3. It is contended that the suit was filed for partition and separate possession, claiming 1/8th share in the suit property. The suit was decreed, granting the plaintiff 1/16th share in the suit property. However, the respondents/appellants before the First Appellate Court, who are third

parties to the suit, filed an appeal along with an application for leave to file the appeal and an application for condonation of a delay of about eight years. The application for leave to appeal was allowed by the Appellate Court, which also condoned a delay of 7 years and 29 days. A writ petition was subsequently preferred before this Court against that decision. This Court upheld the order granting leave to appeal by condoning the delay. Thereafter, the application for condonation of delay under Section 5 of the Limitation Act was taken up for consideration. Since the order has already been passed in the application for condonation of delay in filing the leave to appeal, and the same has been upheld by this Court, no further explanation is required for condonation of delay in filing the appeal. Considering this, the Civil Court condoned the delay. There is no error in the order passed by the District Judge in condoning the delay. I am also informed that the appeal has already been decided. Therefore, the order passed by the Appellate Court does not survive.

4. In view of the above, nothing remains in the petitions, and they stand dismissed. The pending application is also dismissed.

(ARUN R. PEDNEKER, J.)

vj gawade/-.