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

**CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 3219 OF 2021  
IN  
REJECTED CASE NO. 1615 OF 2017**

Shri. Appaso Laxman Patil and Ors

.....Applicants

Vs.

Shankar Ramchandra Patil  
(Decd. Thr. LRs) 1A Shri. Pandurang  
Shankar Patil and ors

.....Respondents

Mr. Govind B. Pawar for the applicants  
Mr. Nagesh Y. Chavan for respondents

**CORAM : GAURI GODSE, J.**

**DATE : 9<sup>th</sup> AUGUST 2024**

**ORDER:**

1. This application is for restoration of the second appeal which was dismissed in default on 9<sup>th</sup> June 2017. There is a delay in filing the application. Hence, there is a prayer for condonation delay.

2. Learned counsel for the applicants submits that the reasons for the delay are explained in the application. He submits that since the power of attorney of the applicant as well as advocate appearing for the applicants were ill, the applicants were unable to remove the office

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objections and were also unable to remain present on 9<sup>th</sup> June 2017. Learned counsel submits that all the objections in the second appeal shall be removed by him once the second appeal is restored.

3. Learned counsel for the respondents opposes the application on the ground that inspite of giving various opportunities, the applicants have failed to remove office objections and also failed to remain present when the matter was called out before the Court. He therefore submits that the reasons given for condonation of delay are not genuine reasons and there is no merit in the application.

4. I have considered the submissions made on behalf of both the parties. Perused the application.

5. Particulars in the application regarding illness of the earlier advocate as well as date of death of the original applicant and the illness about applicant no. 2 are stated as the reason for not taking steps within time. The application also refers to illness of the applicants' advocate as well as financial difficulties of the applicants to take appropriate steps within time. On perusal of the reasons stated in the application and on considering the oral submissions made on behalf of the applicants, I find that the reasons given in the application

are acceptable.

6. Office remark indicates that papers of the second appeal are destroyed after the second appeal stood dismissed. Learned counsel for the applicants submits that he has submitted a set of entire second appeal for reconstruction.

7. Hence, for the reasons stated in the application, delay is condoned and the application is allowed in terms of prayer clauses (b) and (c) subject to learned advocate for the applicants removing all office objections within four weeks from today.

8. If the office objections are removed within time, office is directed to register the second appeal and list the second appeal under the caption for “Urgent Admission” on 21<sup>st</sup> October 2024.

9. It is clarified that no further adjournment will be granted on the next date.

**[GAURI GODSE, J.]**