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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 14312 OF 2024
IN
CIVIL APPLICATION NO. 1012 OF 2018
IN
SECOND APPEAL (ST) NO. 10662 OF 2018

Nirmala Vinayak Mohite ... Applicant

Vs.

Gangaram Tukaram Vichare ... Respondents

deceased through LRS

Nirmala Gangaram Vichare and Others

Mr. Sanskar Marathe for the Applicant.

CORAM : GAURI GODSE, J.

DATE : 22nd NOVEMBER 2024

ORDER :

1. This application is for recalling order dated 2nd November 2018 passed by the learned Registrar granting conditional time to remove office objections. There is a huge delay of 4 years and 125 days in filing this application. The Second Appeal was pending at the stage of condonation of delay. By order dated 7th August 2018 this Court issued notice to the respondents only on the ground for

exploring possibility of an amicable settlement in view of the statement made on behalf of the applicant.

2. Learned counsel for the applicant submits that only due to inadvertence office objections were not removed. He submits that since the appeal was not shown as disposed of on the website, the applicant was under the bonafide impression that the appeal is pending.

3. Learned counsel for the applicant further submits that after the notices were issued in the application for condonation of delay some of the notices were returned unserved with remark 'deceased'. He submits that an application was filed for bringing on record names of legal heirs of one of the deceased party. He thus submits that steps were taken by the applicant, however, due to inadvertence and oversight other objections remained to be removed.

4. Learned counsel for the applicants therefore submits that the delay in filing this application is unintentional. He thus requests to condone the delay and restore the application for condonation of delay in filing the Second Appeal.

5. I have perused the reasons stated in the application. One of

the reasons stated in the application is that the appeal had not come up on board for a long time and it is by way of praecipe dated 16th February 2024 circulation was asked for. However, at that time the applicant learnt that the Second Appeal also stands disposed of in view of the conditional order dated 2nd November 2018. In view of the same, the subsequent applications for bringing on record names of heirs of deceased parties was also rejected on 6th June 2023. It is not the case of the applicant that he was unaware about the conditional order dated 2nd November 2018.

6. The entire application is bereft of any averment regarding steps taken to remove the office objections. Reasons stated in the application that it was difficult to track out all the respondents as there are around 50 respondents cannot be accepted as a justifiable ground for condoning delay of 4 years and 125 days. The application does not give any reason for not taking any steps to comply with order dated 2nd November 2018.

7. A perusal of the order dated 7th August 2018 passed in the Civil Application for condonation of delay in filing the Second Appeal clearly records that only with an intention to explore possibility of amicable settlement notice was issued. Thus, it appears that only with the intention to keep the proceedings pending the present

application is filed. For want of any justifiable reasons for not taking steps for a period of 4 years and 125, such huge delay cannot be condoned.

8. For want of any justifiable reason to condone the delay of 4 years and 125 days the present application is dismissed.

9. In view of dismissal of the present application, all other pending applications are disposed of as infructuous.

[GAURI GODSE, J.]