

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1701 OF 2019
IN
SECOND APPEAL (ST) NO.1114 OF 2017

Vilas Devaji Bhagat and Anr. ...Applicants/Appellants

Versus

Dilip Devaji Bhagar and Ors. ...Respondents

Mr. Vijay Gharat a/w. Ms. Kiran Patil for the Applicants/Appellants.

Ms. Lisa Das i/b Jay & Co. for Respondent Nos.1, 2, 4, 5 and 6.

CORAM : SHARMILA U. DESHMUKH, J.

DATE : 15th MARCH, 2024.

P. C. :

1. Civil Application has been preferred seeking condonation of delay of 64 days in preferring Second Appeal.

2. Learned counsel for the Applicant submits that the judgment of the Appellate Court was passed on 4/8/2016 and the certified copy was received on 11/8/2016 and present Application has been filed after a period of 64 days as the applicant who is an agriculturist was not aware of the legal procedure and was unable to contact the present advocate on time. He submits that the delay may be condoned in the interest of justice.

3. *Per contra* learned counsel for the respondent would submit that there is no sufficient explanation which is given in the Application for condonation of delay of 64 days and as such the same is required to be dismissed.

4. Considered the submissions and perused the record.

5. Second Appeal has been filed after a delay of 64 days. Explanation given is that after the certified copy of the First Appeal was made available, the applicant who is a layman was unable to find any lawyer and thus there was delay in contacting the present advocate and after legal advice was obtained, the present Second Appeal has been filed. Delay of 64 days cannot be said to be such a colossal, inordinate and unexplained delay. The explanation set out in the Civil Application is a plausible explanation. It is settled that each and every day's delay is not required to be explained and explanation can well be accepted in the facts of the present case.

6. In light of the above, Civil Application is allowed. Delay is condoned.

(SHARMILA U. DESHMUKH, J.)