



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 994 OF 2018
IN
SECOND APPEAL (ST.) NO. 8055 OF 2018

Damodar Namdeo Waghmare and Others. ...Appellants.

Versus

M/s. Krishna Construction and Others. ...Respondents.

Ms. Shaba N. Khan i/b Govilkar & Associates for the appellant.

Mr. Yogesh Patil for respondent Nos. 1 to 7.

Ms. Vidhi Jain and Ms. Kavyal P. Shah i/b P. G. Shah for respondent no. 8 to 12.

Coram : Sharmila U. Deshmukh, J.

Date : March 8, 2024.

P. C. :

1. Civil application has been filed seeking condonation of delay of 160 days caused in filing the second appeal. Learned counsel for the applicant would submit that the consent decree was passed on 7th July 2017 and though the applicants were parties to the appeal, they were not given notice and were not aware about the consent decree. She would submit that after becoming aware of the consent decree, necessary information was sought and thereafter present second appeal has been filed.

2. Learned counsel for the respondent would oppose the application. He would contend that there is no sufficient cause shown for condonation of delay of 160 days.

3. Considering the explanation set out in the application that the applicants were not aware of the consent decree, and thereafter they gathered information and the present second appeal has been filed, it is a plausible explanation. Further, the delay is of 160 days only, which cannot be said to be colossal delay so as not to apply provisions of section 5 of the Limitation Act, 1963 liberally.

4. In the light of above, delay of 160 days is condoned. Civil application is allowed.

[Sharmila U. Deshmukh, J.]