

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO.6553 OF 2024
IN
SECOND APPEAL (STAMP) NO.7001 OF 2024
WITH
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**Dashrath Krishna Ghorpade & Anr.Appellants/Applicants
V/S**

Mahadev Bhima KuradeRespondent

**Mr. Umesh H. Pawar a/w Mr. Sagar R. Sonawane *for the
Appellants/Applicants.***

CORAM: SANDEEP V. MARNE, J.

DATE : 11 MARCH 2024.

P.C.:

1 The Interim Application is filed for condonation of delay of 2468 days in filing the Second Appeal.

2 The Second Appeal is sought to be filed for setting up the challenge to the judgment and decree dated 14 March 2017 passed by the Additional District Judge, Gadhinglaj in Regular Civil Appeal No.82 of 2006. It appears that the Appellant never wanted to challenge the decree of the First Appellate Court. The decree was put in execution. At the time of execution it appears that the Bailiff submitted a report about inability to identify and distinguish the structure which is protected by the First Appellate Court. By its decree the First Appellate Court directed Defendants to handover possession of the suit properties excluding the area on which the old house – cow pen of the Defendants was raised. It appears that the description of the structure which was required to be protected is given by the First Appellate Court in its decree. The Applicants complain that in the execution proceedings, on account of inability of the Bailiff to identify the protected structure, even the protected structure is sought to be demolished. Thus the main grievance of the Applicants is to the manner in which the decree is sought to be executed. In that view of the matter, it cannot be said that the Applicants have shown any cause for condonation of inordinate delay of 2468 days in filing the Second Appeal. In case the Applicants believe that the decree of the First Appellate Court is being erroneously executed, the remedy for the Applicants lies elsewhere. That cannot be a reason for the Applicants to turn around and seek to challenge the decree of the First Appellate Court after delay of 2468 days.

3 After going through the pleadings in the Application, I am of the view that no case made out for condoning inordinate delay of 2468 days in filing the Second Appeal. The Interim Application is accordingly rejected. With the rejection of the Interim Application, the Second Appeal also stands dismissed.

4 In view of the disposal of the Second Appeal, nothing survives in the Interim Application for stay and the same is disposed of accordingly.

(SANDEEP V. MARNE, J.)

SUDARSHAN
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KATKAM

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