

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.11 OF 2024
IN
SECOND APPEAL (ST) NO.8645 OF 2015

Nagu Dadaji Patil (Ahire) Decd. Thr.

Legal heirs

...Applicants.

Versus

Sudam Dadaji Ahire and Anr.

...Respondents.

Mr. Pratik Karade a/w. Mr. Abhinav A. Bhatkar i/b Mr. Ajay S. Patil for the applicants.

Mr. Bhushan Deshmukh for the respondents.

Coram : Sharmila U. Deshmukh, J.

Date : 17th April, 2024.

P. C. :

1. Civil Application has been preferred seeking condonation of delay of 7 days caused in filing the Second Appeal.
2. Learned counsel for the applicants submits that the applicants were diligently prosecuting the Appellate Court proceedings and as such the delay which is of only 7 days needs to be condoned.
3. *Per contra*, learned counsel appearing for the respondent submits that before the Trial Court the proceedings were directed to

proceed *ex-parte* and it is only at the appellate stage that the applicants participated in the proceedings. He would further submit that applicants have been negligent and delay ought not to be condoned.

4. From the record it appears that after obtaining the certified copy of the judgment under question the applicants due to her medical ailments could not immediately contact her advocate and after certain delay the papers were sent to the advocate for the purpose of filing the present Second Appeal. It appears that by reason of same there has been delay of 7 days. Delay of 7 days cannot be said to be such a colossal delay, which has remained unexplained. There is sufficient explanation in the Application to condone delay of 7 days. Even if the Trial Court proceedings were *ex-parte* against the Applicant, the same does not divest the Applicants of their right to challenge the same.

5. For the reasons stated in the Application, delay of 7 days caused in filing Second Appeal is condoned. Application is allowed.

[Sharmila U. Deshmukh, J.]