

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

SECOND APPEAL NO. 668 OF 2023

Mangal Bhimarao Shinde & Anr. .. Appellants

vs.

Vitthal Dev and Kashi Vishveshwar Dev
Village Kaneri, Tal: Karveer, Dis: Kolhapur
A Public Trust through its Trustees
1A Dagdu Dattu Dhanawade & Ors.

.. Respondents

...

Mr. Prajakt Mukund Arjunwadkar, for the Appellants.

...

CORAM: SANDEEP V. MARNE, J.

DATE : 13th FEBRUARY, 2024.

P. C.:

1. By this Appeal, the Appellants challenge the Order dated 29th July, 2022 passed by the District Judge-4, Kolhapur, rejecting Misc. Civil Application No.298/2015, thereby refusing to condone the delay in filing the Appeal filed to set up a challenge to the Order dated 19th October, 2000 passed by the Deputy Charity Commissioner, Kolhapur in Scheme Application No. 7 of 2000.

2. I have heard Mr. Arjunwadkar, the learned counsel appearing for the Appellants.

3. After having considered the submissions canvassed by Mr. Arjunwadkar, it is seen that the Appeal was attempted to lodged alongwith Misc. Civil Application No. 298/2015 on 13th October, 2015

i.e. after delay of 15 long years of passing of order dated 19th October, 2000 by the Deputy Charity Commissioner, Kolhapur. Mr. Arjunwadkar has contended that another villager Mr. Prakash Kherade had filed an Appeal in the year 2005, challenging the Deputy Charity Commissioner's order dated 19th October, 2000 and that the said Appeal came to be rejected on technical ground of non filing of an Application for condonation of delay. He would submit that since the interest of Mr. Kherade and of Appellants' is common, the period of limitation will have to be computed from the date of dismissal of Appeal of Mr. Kherade on 21st April, 2005. I am unable to agree. I do not see any reason why filing of Appeal by Mr. Kherade can be a reason for delay in filing of Appeal by the Appellants. Merely because both have common interests in the property of the Trust cannot be a ground for excluding the time spent by Mr. Kherade in prosecuting of his Appeal while computing delay in filing of Appeal by the Appellant.

4. Perusal of the order passed by the First Appellate Court would indicate that Appellants are residents of same village and it is impossible to believe that they did not notice persons taking over the charge of the Trust for 15 long years. No cogent explanation was adduced for condonation of inordinate delay of 15 long years. The First Appellate Court has rightly rejected the application of condonation of delay. No substantial question of law is involved in the Appeal.

5. The Appeal is accordingly rejected.

SANDEEP V. MARNE, J.