

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 2043 OF 2019
IN / WITH
SECOND APPEAL (ST) NO. 27999 OF 2019

Lilabai Laxman Mhatre

...Applicant/

...Appellant

Versus

Harishchandra Sahdev Mhatre And Ors.

...Respondents

Mr. Parth Modak i/b.. Preeti Walimbe, for Applicant/Appellant.
None for Respondents.

HUSENBASHA
RAHAMAN
NADAF

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CORAM : M.M. SATHAYE, J.

DATE : 12th FEBRUARY 2024

P.C. :

. Heard learned counsel for the Applicant. This is an application for Condonation of Delay of about 6 months in filling the above Second Appeal. On 18/11/2019 notices were issued. According to office note, out of all the Respondents, the present application is abated against Respondent Nos. 4 & 8 and it is dismissed against Respondent Nos. 6, 7 & 9.

2. On a specific query, learned counsel for the Applicant states that he is ready to take risk and press the application only against such Respondents who are served. So far as served Respondents are concerned, nobody is appearing and no reply is filed till date.

3. In the aforesaid peculiar facts and circumstances, considering

the extent of delay and that served Respondents have neither filed appearance nor opposed the application by filing reply, sufficient cause is made out on un-controverted averments in application. Therefore, Interim application is allowed and delay is condoned as against Respondent Nos. 1 to 3, 5, 10 to 13/3 only.

4. It is clarified that the present Interim Application as well as the Second Appeal is dismissed as against Respondent Nos. 4 & 6 to 9. Amendment endorsing such dismissal be carried out in second-appeal memo on or before next date. The aspect of partial / full abatement is kept open.

5. All concerned to act on duly authenticated or digitally signed copy of this order.

6. At the request of the Applicant, place the Second Appeal for admission after two weeks.

(M.M. SATHAYE, J.)