



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CIVIL APPLICATION NO. 838 OF 2024
IN CROSS OBJECTION ST. NO. 8340 OF 2024
IN SECOND APPEAL NO. 98 OF 2011

**(Smt. Asha Ramakant Kimmatkar & Ors. Vs. Smt. Tarabai wd/o Chandrakant Vaidya (dead),
through her legal heirs & Ors.)**

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Ms S.P. Giratkar, Counsel for the applicants/cross-
objectors.

Ms M.N. Hiwase, Counsel for the non-applicants.

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CORAM : ANIL L. PANSARE, J.
NOVEMBER 14, 2024

Heard for some time.

2] When the Court was not inclined to grant
relief, the learned Counsel for the applicants/cross-
objectors seeks time to take instructions.

3] Stand over at 3:00 pm.

(ANIL L. PANSARE, J.)

LATER ON

4] When the matter was called at 3:50 pm,
none appeared for the cross-objectors. The Court,
therefore, is left with no other alternative but to proceed
to pass order.

5] The cross-objectors are seeking to condone delay of 3993 days in filing cross-objection. The reasons assigned for the delay are as under :

The cross-objectors, who are respondent nos. 12 to 15 in second appeal, appointed one Advocate, namely, Mr. Ashok Kimmatkar to appear before the Lower Court, who continued to appear before this Court as well. He expired in the year 2017. According to the cross-objectors, Advocate Kimmatkar, being the family member, they relied on him. Advocate Kimmatkar assured the cross-objectors of looking into the matter personally or by appointing his friend. The Advocate did not instruct the cross-objectors to attend the appeal personally. The cross-objectors were under an impression that the appellant, who is their aunt, will file appeal and protect their interest as well. The cross-objectors and the present Counsel then enquired about the status of the matter. They had fear that the appellant in second appeal will compromise with the other respondents, which will be prejudicial to their interest, and accordingly, the cross-objection is filed.

6] As could be seen, there is no cause, much less sufficient cause, shown by the cross-objectors to file cross-objection after a period of about thirteen years. Their own pleading indicate that the Advocate, upon whom they relied, expired in the year 2017. Thereafter, another Advocate came to be appointed. It is surprising that neither Advocate Mr. Kimmatkar, in his lifetime, nor the subsequent Advocate ever advised the cross-objectors

to file cross-objection. Further, the ground of developing sudden fear that the appellant will compromise with the respondents has no nexus with filing cross-objection.

7] Put all together, there is absolutely no justification given by the cross-objectors to approach the Court after such an enormous delay.

8] The application is accordingly rejected with cost of Rs.5,000/- to be deposited with the Vidarbha Lady Lawyers' Association, Nagpur. Cost is imposed because the learned Counsel for the cross-objectors sought time to take instructions, but did not turn-up with the instructions, and in any case, there appears no reason why should the learned Counsel not appear despite putting her to notice that the matter will be taken-up in second session.

9] The application is disposed of in aforesaid terms.

10] The learned Counsel for the applicants has now appeared. She is informed of the order so passed.

(ANIL L. PANSARE, J.)

Sumit