



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION (CAS) NO. 735 OF 2024 IN
SECOND APPEAL STAMP NO. 15161 OF 2024

Shankar L. Kakade (dead) thr. Lrs. **Vs** Sudarshan Bhagchand Jain

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. R.D.Dhande, counsel for appellants

Mr. R.A.Bhandakkar, counsel for respondent.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 28/11/2024.

1. By this application, the appellants are seeking condonation of delay, which is caused in preferring the appeal, challenging the judgment and decree passed by the District Judge-2, Amravati, in Regular Civil Appeal No. 33/2019.

2. Learned counsel for the appellants submitted that the appellants have engaged the local counsel, and after passing of the judgment and decree, the said local counsel was reported to be dead, and therefore, the appellants could not contact any other counsel. Moreover, the appellant no. 2 was suffering from mental disorder, appellant No.1 who is old aged lady, and the appellant no. 3, who is residing at Chandur Railway, could not contact any counsel at Nagpur, and therefore, a delay of 287 days is caused. He submitted that there is sufficient and reasonable cause for condonation of delay, in view of that, the application deserves to be allowed.

3. Learned counsel for the respondent strongly opposed the application on the ground that there is no reasonable and justifiable reason for the condonation of delay. At the same time, he submitted that as the respondent could not approach him, he could not file the reply on her behalf.

4. After hearing both sides and on perusal of the documents on record, it reveals that the appellant No. 2 is suffering from a mental disorder. It further reveals from the recitals of the application that the learned counsel engaged by the appellant is reported to be dead, and as the appellant No. 1 is an old-aged lady, and appellant No.2 is residing at a distance of more than 100 kilometers from Nagpur, she could not approach and file the appeal, appears to be just and reasonable one, and therefore, the application deserves to be allowed. Accordingly, I proceed to pass the following order.

a] The delay of 287 days in preferring the appeal is condoned.

b] The civil application is allowed and disposed of.

Second Appeal No. _____/2024

1. The appeal be registered.

2. Learned counsel for the respondent waives service of notice on behalf of respondent.

3. Learned counsel for the appellant shall supply the copy of appeal memo and other relevant documents to the respondent.
4. Stand over on **17/12/2024**.

[URMILA JOSHI-PHALKE, J.]