



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 1473 OF 2024

Sakharam Raibhan Khandare Died
Through Legal Heirs 1-a Shobha Sakharam Khandare
and Others

VERSUS

Ramrao Jodhbarao Mhaske

...

Mr. R. K. Khandelwal, Advocate for Applicant

Mr. D. M. Shinde, Advocate for Respondent No.1

CORAM : R. M. JOSHI, J

DATE : AUGUST 21, 2025

PER COURT :

1. This Application is filed by Applicants/
Appellants for condonation of delay of more than 15
years in challenging judgment and decree dated
06.02.2008 passed in RCA No. 48/2002 by District Judge,
Hingoli.

2. Applicants herein are Defendants in RCS
No.288/2001 (Old No. 49/1990). The said suit was
contested by Defendants and came to be decreed on
15.10.2001. The Defendants being aggrieved by the said
judgment and decree preferred Appeal being RCA No.
48/2002. This Appeal too was contested by Applicants
herein, which came to be dismissed by judgment and

decree dated 06.02.2008. Thereafter, no steps were taken by the Applicants/Appellants to challenge the said judgment and decree till filing of present Application and Appeal on 26.12.2023.

3. The Applicants claim condonation of delay solely on the ground that they are illiterate and due to financial constraints, Appeal could not be filed in time. Apart from this, submissions are sought to be made on merit of the Appeal.

4. Learned Counsel for the Applicants/Appellants submits that having regard to the fact that issue of immovable property is involved in this Appeal and also considering the illiteracy and financial constraints of the Applicants, delay be condoned.

5. Learned Counsel for contesting Respondent opposed the Application on the ground that unless satisfactory explanation has been provided for condonation of delay, it is not open for this Court to condone the delay. It is his submission that the delay of 15 years is extraordinary delay and the same cannot be condoned casually.

6. There is no doubt about the proposition of law that unless delay caused in filing proceedings is satisfactorily explained, the Court does not get jurisdiction to enter upon the merits of the proceedings. The delay must be explained satisfactorily though everyday's delay is not required explanation.

7. Perusal of the Application does not show any specific reason being provided for condonation of delay. It is not in dispute that the Appellants have participated in the suit and were represented by Advocate of their choice. Similarly, after suit was decreed, they preferred Appeal in time before District Court. This Appeal was also prosecuted by them. Thus, it cannot be said that out of financial constraints or on account of illiteracy, Appeal could not be filed in time. It is not the case made out by the Appellants that status of the proceedings before Appellate Court were not informed to them. Delay in preferring Appeal is enormous and cannot be condoned casually. Merely because the issue of immovable property is involved in the Appeal, the delay does not deserve to be condoned.

8. As a result of above discussion, no case is made out by Appellants for condonation of delay in filing Appeal. Hence, Application stands dismissed.

9. Pending Civil Application(s), if any, stands disposed of.

(R. M. JOSHI, J.)