



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

915 CIVIL APPLICATION NO. 4323 OF 2019
IN FIRST APPEAL (ST) NO. 1241 OF 2019

ANUSAYABAI EKNATH THAKUR AND OTHERS
VERSUS
SARUBAI RAGHUNATH THAKUR (DIED) THROUGH KADU (DIED)
THROUGH RANJANA AND OTHERS

...
Mr. B.R. Rathod h/f. Mr. S.B. Bhapkar – Advocate for Applicants
Mr. S.R. Patil – Advocate for Respondent Nos.2-A to 2-D, 3 to 5-C
and 7

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CORAM : SANJAY A. DESHMUKH, J.
DATE : 10th JANUARY, 2025

PER COURT :

CIVIL APPLICATION NO. 4323 OF 2019

1. This is an application filed for condonation of delay of 1809 days under Section 5 of the Limitation Act.
2. Learned advocate for the applicants pointed out that, probate application was filed by the applicants bearing Probate Application No.1 of 2004, which was decided by the 3rd Civil Judge Senior Division, Jalgaon by passing the judgment and order dated 30.10.2013. The appeal was preferred against that judgment and order bearing No.613 of 2014 which was decided on 27.03.2018 by the District Judge, Bhusawal.

3. Learned First Appellate Court held that, it has no jurisdiction to try the first appeal. In view of the Section 299 of the Indian Succession Act, therefore the delay is caused for filing this appeal.

4. Learned advocate for respondent strongly objected the application and submitted that, the reasons stated in the application are not proper, legal and correct, and therefore he prayed for rejecting the application.

5. Perused the application as well as the judgments of the both the Courts. For the reasons and grounds stated in the application and law laid down by the Hon'ble Supreme Court in the case of **Smt. Nola Jonathan Ranbhise Vs. The Union of India** reported in *2014 (4) ALL MR 181*, it appears that, the First Appeal was filed erroneously and for prosecuting in good faith. The application for condonation of delay deserves to be allowed in the interest of justice. The delay of 1809 days is condoned.

6. The application is disposed of.

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7. Issue notice to the respondents, returnable on 7th February, 2025.

8. Learned advocate – Mr. S.R. Patil waives service of notice for respondent Nos. 2-A to 2-D, 3 to 5-C and 7.
9. Call the record and proceeding.

[SANJAY A. DESHMUKH]
JUDGE