



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.6548 OF 2024
IN
REVIEW APPLICATION (STAMP) NO.5919 OF 2024
IN
SECOND APPEAL NO.39 OF 2021

1. Sambhaji Vasudeo Patil
2. Indirabai Vasudeo Patil
(Deceased) Through LRs
already on record as applicant
No.1).

.. Applicants

Versus

1. Ayodhyabai Bhaskar Patil
2. Pramilabai Prakash Patil
(Deceased through LRs)
- 2a. Ashvini Vijay Patil
3. Bhagirathibai Rambhau Patil (deceased)
No Legal heirs
4. Vimalbai Shivaji Patil
5. Rahul Shivaji Patil
6. Sudhir Ramchandra Mali

.. Respondents

...

WITH
CIVIL APPLICATION NO.6549 OF 2024
IN RAST/5919/2024

...

Mr. P. P. Dhorde, Advocate for the applicants.

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 13 JUNE 2025

ORDER :-

. Present application has been filed for condonation of delay of 869 days in filing Review Application in Second Appeal No.39 of 2021.

2. The applicants are the original defendants, who had filed Second Appeal No.39 of 2021, challenging the judgment and decree passed in Regular Civil Appeal No.1721 of 2012 by learned District Judge-3, Jalgaon on 30.01.2020, which had confirmed the judgment and decree passed in Regular Civil Suit No.270 of 2003 by learned Civil Judge Junior Division, Chalisgaon, District Jalgaon, thereby the suit for partition, separate possession, declaration and permanent injunction was partly decreed on 30.10.2012.

3. Heard learned Advocate Mr. P. P. Dhorde for the applicants. It is not even necessary to issue notice to the respondents.

4. I would like to deal with the grounds of delay first. It has been stated that due to ill health and suffering from various ailments, severe knee pain, the applicant was unable to walk and move from one place to place to another. The age of applicant No.1 is 78 years and it appears that on his behalf only or for his grounds only, the delay was sought to

be condoned. No medical certificate has been produced to support the said one line reason. It is then stated that the medical certificate would be produced as and when required. The applicants were duty bound to explain the delay of each and every day. Another fact is that for explaining such huge delay, there has to be something on record. Therefore, when such cryptic reason has been mentioned, it cannot be said to be a good and sufficient ground to condone the delay of 869 days. Therefore, the application for condonation of delay itself deserves to be rejected.

5. Even if for the sake of arguments we take that the delay deserves to be condoned, yet it can be seen from the impugned order, on which the submissions on behalf of the applicant were heard i.e. on the main review application also, that it was the concurrent judgment and decree those were challenged by the original defendants and the present applicants. The Advocate for the present applicants was heard at length i.e. the Advocate, who had made submissions even in the Second Appeal. Now, by way of review, the same points are tried to be raised i.e. in respect of point of limitation as well as *res judicata*. Those points have also been considered by this Court and the other points are in respect of the factual aspects and, therefore, this Court had come to the conclusion that substantial questions of law have not been pointed out as they are required to be for Section 100 of Code of Civil Procedure

requiring the admission and, therefore, at the admission stage itself, the Second Appeal was dismissed. This Court cannot sit as an appeal or in other words, a review cannot be entertained in disguise of appeal and, therefore, no case is made out for hearing the parties on the review application.

6. The application, therefore, stands rejected.

7. Pending applications stand disposed of.

[SMT. VIBHA KANKANWADI]
JUDGE

scm