



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

SECOND APPEAL NO. 84 OF 2024
Chandrakant Shahajirao Gunjite And Ors
VERSUS
Suresh Shesherao Telang And Ors

Mr. S. C. Swami, advocate for Appellants

CORAM : R. M. JOSHI, J.

DATE : 28 July, 2025

PER COURT :-

1. This appeal was heard substantially on 16.01.2025. After hearing learned counsel for the appellants, this Court had expressed its *prima facie* view that the appeal may not involve substantial question of law. Learned counsel for the appellants had sought time to place before this Court any binding precedents on the issue.

2. Today also learned counsel for the appellants is heard. Appellant is seeking setting aside of the impugned order only on the ground that the advocate for the appellants failed to inform them the status of the proceedings, and hence Regular Civil Suit No. 367/2010 came to be decided against the appellants in their absence.

3. A specific query is made to the learned counsel for the appellants as to whether any evidence was led before the First Appellate Court while seeking condonation of delay that the appellants/original defendants were

instructed by the learned advocate to not to cause appearance before the Court. Admittedly, no evidence was led. Thus, the contention raised by the Appellant is not substantiated.

4. On the specious ground that the learned advocate did not inform about the status of the proceedings, without substantiation of the same, it would not be possible for this Court to accept the said contention. A period of six years after passing of the judgment and decree is too long in order to give even benefit of doubt to the appellants. It is never expected from the litigant that no enquiry is made with Advocate of proceeding for such long period. To accept such flimsy and un-supported/uncorroborated ground for condonation of delay of over six years, would create wrong precedent. It will give license to unscrupulous litigants to take such plea and get away with the burden of proving the absence in any proceeding to be without their fault. In the fact of the case the Appellant has even not made any attempt to establish the said ground. The Appellate Court, therefore, cannot be said to have erred in rejecting application for condonation of delay in filing appeal. Consequently, there is no substantial law involved in this appeal.

5. Second Appeal, therefore, stands dismissed.

(R. M. JOSHI, J.)

bsj