



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

**CIVIL APPLICATION NO. 815 OF 2025
IN RAST/11985/2024**

Kashinath Haribhau Shitole (l.rs.) Muktabai Kashinath Shitole
And Others

VERSUS

Vaijanath Gena Shinde.

...

Mr. Prashant Deshmukh h/f Mr. P. B. Rakhunde, Advocate for
Applicants

Mr. M. M. Patil (Beedkar), Advocate for Respondent in SA

.....

CORAM : ROHIT W. JOSHI, J.

DATED : 03RD APRIL, 2025

PER COURT :-

. The present application is filed seeking condonation of delay of 4814 days in filing an Application for Review of judgment dated 17.01.2011 passed by this Court in Second Appeal No.210 of 1990. The delay is sought to be explained citing financial hardship. It is also stated that the applicants were not aware about the pending litigation. It is also sought to be contended that the applicant did not have full details and particulars about the litigation and could gather the same only in the month of March, 2024.

2. The present applicants are decedents of the original

plaintiff, Kashinath. Kashinath had expired pending the litigation and his legal representatives namely Muktabai, Chandrakant, Dattatraya and Haribai were brought on record. They have appeared and contested the matter in the Second Appeal. Their legal representatives are the applicants in present Civil Application. It is clear from the record that the statement in the application for condonation of delay that the applicants were not aware about the pending litigation is incorrect. The alleged financial hardship of the applicants is not properly explained in the application.

3. Although, merits of the matter cannot be looked into, the only contention with respect to merits that the learned Counsel agitated was that the property was mortgaged with a bank and the sale deed was hit by Section 48(d) of the Maharashtra co-operative Societies Act, 1960. This ground of challenge can only be taken by the bank and not by any other person. In that view of the matter, even on merits, the applicant does not have any case.

4. That apart, the delay is of around 13 years, and to be precise of 4814 days. The Second Appeal arises out of Regular Civil Suit No.156 of 1978. It is thus apparent that the

parties have litigated with each other for a period of around 33 years while the Second Appeal was decided against the present applicants. Having regard to the totality of the circumstances, I am of the opinion that the delay is not explained at all and rather explanation offered is contrary to record. I am, therefore, not inclined to condone the delay and accordingly the Civil Application stands **rejected**.

(ROHIT W. JOSHI, J.)

Rushikesh/2025