



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

**CIVIL APPLICATION NO. 5529 OF 2025
IN
SECOND APPEAL STAMP NO. 15448 OF 2025**

Tejrao S/o Bhimrao Sable
Since deceased through L.Rs.
Kasabai Tejrao Sable and others .. Applicants

Versus

Laxmibai Shriram Sable and others .. Respondents

Shri Shantaram R. Dheple, Advocate for the Applicants.
Shri M. K. Singh, Advocate for the Respondent No. 1.
Shri Ravindra B. Narwade Patil, Advocate for the Respondent
Nos. 3, 5 and 6.

**CORAM : SHAILESH P. BRAHME, J.
DATE : 25TH SEPTEMBER, 2025.**

FINAL ORDER :

. Heard both sides.

2. Application seeks to condone delay of 670 days caused in preferring second appeal against the judgment and decree dated 06.04.2023 passed in R.C.A. No. 82 of 2014.

3. Applicants are original defendants in R.C.S. No. 659 of 2011 filed by the respondent No. 1 for partition and possession. It was partly decreed on 12.02.2014. Against that R.C.A. No. 82 of 2014 was preferred by present applicants. It was dismissed on

06.04.2023. Second appeal has been filed with present application on 05.05.2025.

4. Learned counsel for the applicant submits that the decision rendered by the lower Appellate Court was not intimated by the lawyer and for want of knowledge no steps could be taken to prefer the appeal. It is further contended that applicant No. 3 is posted at Chennai and there is no male and competent member in the family to take steps for filing appeal. The delay is not intentional and it is prayed to condone the same.

5. Per contra, learned counsels for the respondents oppose the submissions. It is submitted that grounds stated in the application are not convincing, rather, those are against latest pronouncement of the Apex Court **dated 21.11.2024 in the matter of Rajnesh Kumar Vs. Ved Prakash in S.L.P. (Civil No. 935 of 2021).**

6. It reveals from record that applicant No. 3 - Rameshwar is working at Chennai. Other members of the family could have undertaken the job of filing appeal within time. One of them is male i. e. applicant No. 1-B - Vikas. It would be the duty of applicants to be in touch with their lawyer. The application does not spell that the applicants are being misrepresented by the lawyer or there is any suppression of facts from the lawyer concerned. The reason that applicant No. 1 was consistently out of station is not appealing.

7. Learned counsel for the respondent has rightly placed reliance on the judgment of the Apex Court in the matter **Rajnesh Kumar Vs. Ved Prakash** (supra). It is profitable to refer to relevant extract :

10. It appears that the entire blame has been thrown on the head of the advocate who was appearing for the petitioners in the trial court. We have noticed over a period of time a tendency on the part of the litigants to blame their lawyers of negligence and carelessness in attending the proceedings before the court. Even if we assume for a moment that the concerned lawyer was careless or negligent, this, by itself, cannot be a ground to condone long and inordinate delay as the litigant owes a duty to be vigilant of his own rights and is expected to be equally vigilant about the judicial proceedings pending in the court initiated at his instance. The litigant, therefore, should not be permitted to throw the entire blame on the head of the advocate and thereby disown him at any time and seek relief.

8. Present case is squarely covered by the decision rendered by the Apex Court. The approach of the applicants is casual. The delay is inordinate. It is difficult to comprehend that during this period the applicants were unable to learn the status of their matter. Application lacks *bona fides*.

9. The civil application is rejected.

[SHAILESH P. BRAHME J.]