



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

**67 CIVIL APPLICATION NO. 10458 OF 2024
IN AOST/22835/2024
WITH
CIVIL APPLICATION NO. 10459 OF 2024
IN AOST/22835/2024**

**SARLABAI W/O BHAGCHAND BHAWAR AND OTHERS
VERSUS
BHAGCHAND S/O KADU BHAWAR AND OTHERS**

....
Mr. V. N. Shinde, Advocate for the applicants
Mr. A. P. Ghule patil, Advocate for Respondent No.3
....

CORAM : S. G. CHAPALGAONKAR, J.

DATE : 02.05.2025

PER COURT :-

APPLICATION FOR CONDONATION OF DELAY

. Heard learned advocate appearing for respective parties.

2. Applicants are seeking to condone the delay of 139 days caused in filing appeal from order, challenging the judgment and order dated 03.01.2024, passed by the learned District Judge-4, Aurangabad in R. C.A. No.141 of 2021.

3. The learned Advocate appearing for the applicants, referring to the proceedings in paragraph Nos. 3, 4, and 5, submits that the delay caused in filing the appeal is unintentional. The

applicant had initially talked with the advocate over the telephone but she could not understand the purport of the order. Hence, she personally visited the advocate in July 2024, and after obtaining a conspectus of the order, she took steps to file the present appeal. As such, the delay has been occurred which is neither intentional nor deliberate.

4. Per contra, the learned advocate appearing for the respondents vehemently opposes the application. He submits that, while in the remaining matter, the learned District Judge had imposed a cost of Rs. 3,000/-, the applicant has already received the cost, and thereafter the present application has been filed. According to him, the explanation given in paragraph Nos. 3, 4, and 5 is not acceptable

5. Having considered the submissions advanced, it is evident that the applicants are litigating for a right to immovable property. They have provided a plausible explanation in paragraph Nos. 3 to 5, although the explanation is not for each and every day of the delay. Considering the nature of the litigation and the approach adopted in the matter, it is also appropriate that the respondents be compensated for the inconvenience caused. Hence, in the result, following order is passed:

::ORDER::

- (i) Civil application is allowed.
- (ii) The delay of 139 days caused in filing appeal is hereby condoned subject to condition that the applicants pay costs of Rs.3000/- to respondent No.3, Kalyan Kadu Bhawar, within a period of four (04) weeks from today.

6. Post the matter for further consideration on 16.06.2025.

[S. G. CHAPALGAONKAR, J.]

HRJadhav