



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

**930 CIVIL APPLICATION NO.10543 OF 2025
IN SECOND APPEAL NO.355 OF 2025**

**RIYAJODDIN @ RAJU HAJI MOHD. SHRIF (DIED) &
OTHERS
VERSUS
HAJI BEGUM WO KHAJA MOINODDIN & ANOTHER**

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Advocate for applicants : Mr.G.K.Thigale
Advocate for Respondent nos. 1 and 2 : Mr.Shriram V.
Deshmukh

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**CORAM : ARUN R. PEDNEKER, J.
DATE : 07.11.2025**

P.C. :

1] Heard the learned counsel for the applicants, so also, the learned counsel for the respondents.

2] The learned counsel for the applicants submits that the applicants had objected to the execution proceedings as they were party to the civil suit and that the decree is not binding upon them in the objection filed under Order XXI Rule 97 and the objections are rejected. Against which, Regular Civil Appeal was filed before the District Court and the same was rejected by order dated 12.07.2023. Against the said order, the applicant preferred Civil Revision Application before this Court on assumption that the Civil Revision Application would be maintainable

and the said Civil Revision Application was disposed of, by order dated 21st August, 2025, indicating that revision is not maintainable and the Civil Revision Application is disposed of with liberty to take recourse to the remedy as permissible in law. Thereafter, on 12.09.2025, the present Second Appeal is filed. He further submits that considering the period in prosecuting the Civil Revision Application under Section 14 of the Limitation Act, the Second Appeal is within limitation and considering the said fact, the delay caused in filing the present Second Appeal if any may be condoned.

3] The learned counsel for the respondents has objected to the same contending that the impugned order is dated 12.07.2023 and the delay is not properly explained by the applicants and that the Civil Application for condonation of delay be dismissed and consequently Second Appeal be dismissed.

4] Having considered the submissions, this Court is of the view that since the applicants had prosecuted the Civil Revision Application from 08.09.2023 till 21.08.2025 and the present Second Appeal is filed on 12.09.2025 and the same is within 90 days if the period of prosecuting the Civil Revision Application is excluded. Since applicants were under a *bona fide* belief that Civil Revision Application would be maintainable, the period in prosecuting the Civil

Revision Application has to be excluded in computing period of limitation, so also, statutory rights of the parties are involved in the matter and in the interest of justice, the delay, if any, needs to be condoned. The delay is condoned. Civil Application is disposed of accordingly.

5] List Second Appeal No.355/2025 on
11.11.2025.

[ARUN R. PEDNEKER]
JUDGE

DDC