



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

**7 CIVIL APPLICATION NO. 758 OF 2023
IN SA/24/2023**

**DEVIDAS GANPATI KALE DIED LRS. BHAGWAN DEVIDAS
KALE AND ORS.**

VERSUS

MUNIRBI MAHEBUK KARANJE

**WITH SECOND APPEAL NO. 24 OF 2023
WITH CIVIL APPLICATION NO. 759 OF 2023
IN SA/24/2023**

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Advocate for Applicants : Mr. Gaikwad Anil M.

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CORAM : SHAILESH P. BRAHME, J.

DATE : 16.09.2025

PER COURT :-

1. Heard Mr. Gaikwad for the applicants. None for the respondent.
2. Applicants are seeking condonation delay of 479 days in bringing themselves on record at the place of deceased appellant Devidas Ganpati Kale. The cause of action survives against the applicants. They are necessary parties. For the reasons stated in the civil application, it stands allowed in terms of prayer clause "A".

Second Appeal

3. This second appeal is directed against order of rejection of application for condonation of delay of 2 years and 8 months. Appellant is the original defendant who suffered *ex-parte* decree of specific performance of contract.

4. Instead of admitting the second appeal, this Court proposes to decide the appeal finally at the admission stage on following substantial questions of law :

(i) Whether Lower Appellate Court is justified in refusing to condone delay of 2 years and 8 months in preferring appeal under Section 96 of CPC ?

(ii) Whether there are any malafides and oblique motive on the part of appellants to prefer appeal under Section 96 belatedly so as to derive some disadvantage ?

5. Parties shall be at liberty to place on record relevant documents.

6. It is indicated that matter shall be decided finally on the next date.

7. Stand over to 07.10.2025 in urgent admission category.

8. Interim relief granted earlier, if any to continue till next date.

(SHAILESH P. BRAHME, J.)

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vmk/-