

varsha

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 277 OF 2025
WITH
INTERIM APPLICATION NO. 6915 OF 2025**

Vitthal Tukaram Morbale ... Appellant/Applicant

vs.

Banabai Vitthal Desai ... Respondent

Mr. Kedar Lad (through VC) for the Appellant/Applicant.

CORAM : GAURI GODSE, J.

DATED : 4th APRIL 2025

ORDER:

1. Heard learned counsel for the applicant. This second appeal is preferred by the defendant no.3 to challenge dismissal of his application for condonation of delay in filing the first appeal in the district court. The appeal was filed alongwith the condonation of delay application to challenge the decree for partition and separate possession passed on 1st March 2023. The first appeal was preferred after more than one year.

2. Learned counsel for the appellant submits that the reasons for delay are explained in the application filed in the first appeal. He submits that the appellant was addicted to vices of alcohol and thus,

he was unable to take steps to file first appeal. He submits that after the notice of execution was received, the appellant took steps to file appeal. He further submits that the delay is only of one year and twenty six days; hence, the respondent can be compensated by payment of cost. He thus, submits that the second appeal would require consideration of this court.

3. I have perused the papers of the second appeal. Except for stating that the appellant was addicted to vices of alcohol and he remained away from the house for a longer period, no other reason is stated in the application for condonation of delay of more than a year. It is not the appellant's case that he was unaware about the decree. The first appellate court has refused to condone the delay on the ground that no sufficient cause is shown for the delay. The reason for not taking steps within time is only on the ground of the appellant's addiction to alcohol. Thus, the first appellate court has rightly refused to condone the delay on the ground that sufficient cause is not made out.

4. I do not see any perversity or illegality in the reasons recorded by the first appellate court. For want of any justifiable reason, delay of more than one year cannot be condoned.

5. The second appeal does not raise any substantial question of

law.

6. Hence, the second appeal is dismissed. In view of dismissal of second appeal, the pending interim application is disposed of as infructuous.

(GAURI GODSE, J.)