

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 1957 OF 2022

IN

SECOND APPEAL (ST) NO. 15361 OF 2021

Maruti Rama Varakhade (since decd. ... Appellants/Applicants
Through LRs) Dharmraj Maruti
Varakhade and Anr.

V/s.

Sou. Tarabai Mahadev Pol and Ors ... Respondents

None for the applicants.

Mr. Atharva R.B. I/by Mr. Vaibhav Gaikwad, for the respondent no. 1.

CORAM : N.J. JAMADAR, J.

DATE : 13th JUNE 2025.

PC:

1. Heard the learned counsel for the respondent no. 1.
2. This is an application for condonation of 1 year and 142 days delay in filing the Second Appeal.
3. The Respondent Nos. 3,4,5 and 9 have been served.
4. None appears for the respondent nos. 3, 4, 5 and 9.
5. The learned counsel for the respondent no. 1 resisted the prayer for condonation of delay in filing the Second Appeal.

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6. It was submitted that the applicants have not ascribed a justifiable reason. Attention of the Court is invited to the averments in the application, especially Para No. 12, to buttress the submission that the delay has not been properly accounted for.

7. The impugned judgment and decree was passed by the First Appellate Court on 4th December 2019.

8. In para No. 12 to 15 of the application, the applicants have averred the circumstances on account of which the appeal could not be filed within the stipulated period of limitation. Reference is made to the exigency of the situation that arose on account of Covid-19 pandemic .

9. It is trite that an application for condonation of delay ought to receive liberal consideration so as to advance the cause of substantive justice. In the instant case, in para Nos. 12 to 15, the applicants have ascribed reasons for the delay. It is a matter of fact that, the exigency of the situation arose on account of Covid-19 Pandemic.

10. In these circumstances, it does not appear that there was deliberate or intentional delay on the part of the appellants. Thus, the Court would be justified in exercising the discretion in favour of condonation of delay as it would promote cause of determination of the lis on merits, rather than on technicalities and, therefore, I am inclined to allow the application.

11. Hence, the following order:

ORDER

- i) The application stands allowed in terms of prayer clause (a).
 - ii) The delay in preferring the Second Appeal stands condoned.
12. The Second Appeal be numbered and listed as a fresh matter.
13. Interim Application disposed.

(N.J. JAMADAR, J)