

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.11309 OF 2025**

Ramchandra Krishna JadhavPetitioner

Vs.

Mahadev Antu Mali (Jagtap) & Ors.Respondents

Mr. Kalpesh Patil, i/b. Mr. Shivaji P. Yadav, for the Petitioner.
Mr. Rushikesh Barge with Mr. Vinod Shejwal, for Respondents.
Mr. Sanjay D. Rayrikar, AGP, for the Respondent No.4-State.

**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 13th NOVEMBER 2025**

PC.:-

1. The present Writ Petition takes exception to order dated 24th June 2025 passed by District Judge, Karad below Exhibit 5 in Civil M.A. No.9 of 2025. The Petitioner is plaintiff in Regular Civil Suit No.149 of 2004. He instituted said suit seeking decree of perpetual injunction against Respondents in respect of suit property, more particularly described as 1A and 1B in plaint. The suit has been decreed vide Judgment and Decree dated 3rd July 2006. The Respondents are restrained from obstructing plaintiff's possession over suit properties. The Respondents filed appeal along with application for delay condonation in the year 2025. Apparently, there is a delay of more than 18 years. The application seeking delay

condonation vide Miscellaneous Application No.9 of 2025 is still pending. The Respondents filed an application for grant of stay to decree and same has been allowed under the impugned order.

2. Mr. Kalpesh Patil, learned Advocate appearing for Petitioner points out that suit was instituted in year 2004. During pendency of suit, there was injunction order against the Respondents. Ultimately, suit has been decreed on 3rd July 2006. Recently, when Respondents disturbed the possession of Petitioner over suit properties, he was required to file the execution of decree passed in the year 2006. Thereafter, Respondents have filed appeal along with application for delay condonation.

3. In this background, unless the delay is condoned and appeal is registered, there was no reason to grant stay to execution of decree that has been passed in the year 2006. The learned counsel appearing for Respondents supports the impugned order. He endeavours to point out that plaintiff has obtained decree on the basis of four boundaries mentioned in sale deed. However, the land purchased by him and suit property is different.

4. Having considered submissions advanced by learned Advocates appearing for respective parties, it can be observed that since 2004, Petitioner is enjoying the protection of injunction order. The suit has been decreed after hearing both the parties. The Respondents never felt it necessary to challenge the decree, till the Petitioner file execution thereof.

5. In this background, it would be necessary for the Appellate Court to first decide whether Respondents have made out sufficient cause to condone inordinate delay of 18 years in filing appeal. When appeal is filed with application to condone inordinate delay, it is expected that unless the Court satisfies that delay is properly explained and condoned the same, there is no necessity to pass order in the nature of stay to longstanding decree.

6. In that view of the matter, impugned order cannot be sustained in law. Hence, the following order:

ORDER

- i) The Writ Petition is allowed in terms of prayer clause (a).
- ii) Needless to mention here that Respondents shall be at

liberty to reiterate their prayer in case, the Appellate Court condones the delay and considers the appeal.

- iii) The Appellate Court shall also endeavour to decide Civil M. A. No.9 of 2025 pending before him expeditiously and within a period of six weeks from today.

RAJU
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GAIKWAD

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(S. G. CHAPALGAONKAR, J.)