

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.1637 OF 2019
IN
FIRST APPEAL (ST.) NO.27404 OF 2019

Maruti Shankar Teli and Ors.

... Applicants.

Versus

Dagadu Yashwant Dhere and Ors.

... Respondents.

Ms. Shakuntala A. Mudbidri for the Applicants.

Coram : Sharmila U. Deshmukh, J.

Date : March 13, 2025

P. C. :

1. Interim Application has been preferred seeking condonation of delay of 1 years 275 days caused in preferring the Appeal.
2. Learned counsel appearing for the Applicants submits that as per the office noting, the Respondent Nos.3 to 5 and 7 to 11 were duly served and subsequently by order passed in Interim Application No.2128 of 2024, notices were issued to Respondent No.2 and he is also duly served. She would further submit that the Respondent Nos.1 and 12 have expired and seeks leave delete the Respondent Nos.1 and 12 as the proceeding arises out of the Public Trust Act. Leave to delete the name of Respondent Nos.1 and 12 is granted. Amendment to be carried out forthwith.
3. Though this Court was inclined to permit the Applicants to

file an additional affidavit to elaborate the explanation for the delay, the same was not accepted by the learned counsel for the Applicants and she insisted on proceeding with the arguments.

4. Learned counsel for the Applicants submits that in the year 2018, the same order was challenged by the Respondents and thereafter, the present Appeal came to be filed. According to her, this is a sufficient explanation for the delay of 1 year and 275 days caused in preferring the First Appeal.

5. I have considered the submissions and perused the records.

6. The impugned judgment and order has been passed on 8th September, 2017 by which the matter came to be remanded for deciding the Change Report afresh. The present Applicants accepted the order of remand and did not challenge the same. It is not their case that they were not aware of the passing of the impugned judgment. The explanation for the delay in challenging the impugned judgment is that the Respondent No.1 filed an Appeal challenging the same of which the notice was received and thereafter, the present Appeal was filed. The explanation which is required to be tendered is as to why the Appeal could not be filed within the period of limitation. There is no explanation for the same. The filing of the Appeal by Respondent No.1 cannot be considered as an explanation for delay of 1 year 275 days caused in

preferring the present First Appeal. Even if that is accepted, the pleading is that in or around June, 2019, the present Applicants were served with the notice of hearing and despite thereof, the Appeal has been filed only on 3rd October, 2019 and the explanation even for this delay from June, 2019 to October, 2019 is that all efforts were made to collect necessary documents. Completely vague and bald assertions are made even to explain the delay for period from June, 2019 to October, 2019.

7. Perusal of the said Application would indicate negligence and inaction on part of the Applicants in filing the present Appeal. The conduct of the Applicants is also wanting in bonafide as it is only by reason of the Appeal being challenged by the other party, that the present First Appeal is being filed, having once accepted the order of remand.

8. It is well settled that though the law of limitation is harsh the same is to be applied with full rigour where the litigant is found to be wanting in bonafide and the conduct shows negligence and inaction. In the present case, the pleadings in the Application do not set out any explanation much less explanation of condonation of delay of about 1 years 275 days caused in preferring the Appeal.

9. In light of the above, I am not inclined to condone the delay of 1 yeas 275 days. Resultantly, the Application stands dismissed.

10. In view of the dismissal of the Civil Application for condonation of delay, the First Appeal and the other Civil/Interim Applications, if any, do not survive for consideration and same stands dismissed.

[Sharmila U. Deshmukh, J.]