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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 10192 OF 2025
IN
SECOND APPEAL (ST) NO. 16765 OF 2025

Ratan Rajaram Mhatre Patil deceased & Ors …Applicants

*Versus*

Dattu Joma Mhatre Patil & Ors …Respondents

WITH
INTERIM APPLICATION NO. 10193 OF 2025
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Mr. Harish S. Adwant, (through VC), for the Applicant.

Mr. Namita Shirke, i/b, Adv. R.G. Mudholkar, for the Respondents 1 to 4A.

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AMOL PREMNATH JADHAV

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Date: 2025.12.24 20:17:38 +0530

CORAM Advait M. Sethna, J.
DATED: 24 December 2025

PC:-

1. Heard learned Counsel for the parties.

2. Ms. Namita Shirke appears for the Respondent Nos. 1 to 4A. The learned Counsel for the Applicants/Appellants who appears through VC states that all the other Respondents are

duly served. However, they have not chosen to appear today, despite service.

3. This Application is preferred to condone delay of 159 days in filing the Second Appeal. With regard to the assessments of the learned Counsel, I have perused the Application. The explanation for such delay is set out in paragraphs 4 to 14 of the said Application. Briefly, it appears that as set out in paragraph 4, the Applicant No.s 1A to 1E's mother was of advanced stage and was diagnosed with Cervical Spondylosis. The medical certificate in this regard has been annexed to the Application.

4. Another relative of the Applicants was suffering from Cancer and was admitted for treatment on 8th July 2024. The medical papers in this regard are also annexed. Thereafter, the Applicant No. 3A's son met with an unfortunate accident. The medical papers are also annexed.

5. The Application also indicates that one of the close relatives of the Applicants suffered cardiac arrest and passed away on 3rd December 2024. All these would demonstrate that the Applicants were traumatized, both physically and mentally in light of the circumstances aforementioned.

6. The Application also indicates that pursuant to the impugned order which was passed on 21st June 2024, the certified copy was promptly applied on 4th July 2024 which was obtained/received on behalf of the Applicants on 29th July 2024. In paragraphs 13 and 14 of the Application, it is averred that the erstwhile Advocate who was representing the Applicants, due to advance age, had to stop practice. It is then

that the present Advocate stepped in and had diligently made all efforts to collect copies of all the record and proceedings from the said erstwhile Advocate. All of this, consumed some time.

**7.** The Respondent Nos. 1 to 4A have filed a reply to the Application. They have opposed the Application vehemently. According to them, the reasons do not amount to sufficient cause. It is submitted that at least one of the Applicants should have filed the Second Appeal. However, this was not done for the reasons best known to Applicants.

**8.** The affidavit in reply categorically denies any settlement talks between the parties which according to the learned Counsel for the Applicants did take place between the families. This is thus disputed. Referring to the reply, learned Counsel for the Respondents has also submitted that the dates for obtaining certified copies are not specifically set out in the Interim Application. This is placed across the bar for the first time.

**9.** She would thus submit that the Application for delay condonation has no merit and should be dismissed.

**10.** Heard learned Counsel for the parties.

**11.** On perusal of the Application and for all the reasons which are indicated above, the delay has been sufficiently explained. This is not a case as the Supreme Court in **Sheo Raj Singh (Deceased) through LRs & Ors Vs. Union of India & Anr.**[1] explains a distinction between explanation and excuse while condoning delay of 479 days. There is an explanation

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[1] 2023 LiveLaw (SC) 865

for the delay which is duly documented in the Interim Application by referring to the relevant record including the medical papers.

**12.** Considering the background of the Applicants, it cannot be stated that they were not seriously pursuing the proceedings. The physical and mental trauma to the Applicants in the given peculiar facts and circumstances cannot be lightly brushed aside.

**13.** Ultimately, it would not be fair and not just to non-suit the Applicants merely on the ground of delay, which in the present factual complexion is neither deliberate nor intentional.

**14.** For all of the above reasons, the Application for condonation of delay deserves to be allowed and is allowed as such. The Interim Application is disposed of.

(Advait M. Sethna, J)