



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 6507 OF 2024
IN
FIRST APPEAL st. NO. 25603 OF 2023

Jayprakash Swaminath Dubey and Others. ...Appellants.

Versus

Sachidanand S. Mishra

Since deceased and Others. ...Respondents.

Omprakash Pandey, Suchita Pandey and Pramila Prajapati for the Appellant.
Mr. R. R. Sharma for the Respondent No. 1b and 1c.

Coram : Sharmila U. Deshmukh, J.

Date : March 27, 2025.

P. C. :

1. Interim Application has been preferred seeking condonation of delay of 120 days caused in filing First Appeal.
2. Learned Counsel appearing for the Appellant submits that judgment was passed on 21st April 2023 and prior thereto, on 10th March 2023, the Appellant No.1 who was suffering from TB was admitted to BHU hospital, Varanasi and Appellant Nos.2 and 3 went to the native place for taking care of Appellant No.1 which treatment continued upto June 2023 and thereafter Appellant Nos. 2 and 3 came to Mumbai on 11th July 2023 and subsequently obtained certified copy of impugned judgment and instructed their Advocate to file Appeal.

He submits that as such there is sufficient explanation for the delay of 120 days.

3. *Per contra* learned Counsel appearing for the Respondent No.1b and 1c would submit that the Appellants did not participate in the proceedings before trial Court and the judgment and decree was passed *ex parte* and therefore no diligence ought to be shown.

4. The fact remains that medical report produced on record demonstrates that Appellant No.1 was admitted to BHU hospital, Varanasi and it is specific case of the Appellants that the Appellant No. 2 and 3 had gone to Varanasi to take care of Appellant No.1 who was their brother and it is only in July 2023 that they came to Mumbai and approached their Advocate for filing Appeal.

5. Considering the explanation, delay of 120 days deserves to be condoned and is hereby condoned. Interim Application stands disposed of.

6. Place the Appeal for admission on **30th April 2025**.

[Sharmila U. Deshmukh, J.]