

Iresh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 1677 OF 2025

IN

SECOND APPEAL ST NO. 54 OF 2024

Narsinga Babu Kore
(Deceased)

.....Applicant

Vs.

Smt. Shamshad Imamhusen Desai
(Deceased) and anr

.....Respondents

Mr. Padmanabh D. Pise a/w Ms. Sejal A. Hariyan i/b P. Padmanabh
and Associates Advocate for the Applicant

CORAM : GAURI GODSE, J.

DATE : 14th FEBRUARY 2025

ORDER:

1. Heard learned counsel for the applicant. This application is for condonation of delay of 22 days in filing the second appeal. He submits that the reasons are explained in paragraphs 3 and 4 of the application.

2. On the merits of the second appeal, learned counsel for the appellant submits that the plaintiff has examined the scribe to support the Will as both the attesting witnesses had expired. He further

IRESH
MASHAL

Digitally
signed by
IRESH
MASHAL
Date:
2025.02.20
13:54:07
+0530

submits that defendant's claim that the property was bequeathed to her by way of a Will is not supported by any evidence. He further submits that the plaintiff is entitled to the suit property based on the Will executed by his father who was admittedly owner of the suit property. He further submits that since the defendant is not the daughter of the plaintiff's father, she would even other wise have no right in the suit property. He, thus, submits that the second appeal would require consideration on the incorrect appreciation of the evidence on record and not considering the evidence led by the plaintiff to support the validity of the Will.

3. In view of the aforesaid, issue notice to the respondents, returnable on 17th June 2025.

4. In addition to Court notice, learned advocate for the applicant shall serve the respondents by private notice and file affidavit of service before the next date.

[GAURI GODSE, J.]