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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 731 OF 2025
IN
SECOND APPEAL (ST) NO.33193 OF 2023**

Baban Kisan Ghode ... Applicant

Vs.

Madhukar Ganpati Ghode ... Respondent

Mr. Bhushan Walimbe a/w. Mr. Mayank Tripathi for the Applicant.

CORAM : GAURI GODSE, J.

DATE : 11th MARCH 2025

ORDER :

1. This application is for condonation of delay of 217 days in filing the appeal. Learned counsel for the applicant submits that the delay is explained in paragraphs 6 and 7 of the application.

2. On merits of the second appeal, the learned counsel for the appellant submits that the dispute is between adjoining land owners of CTS No. 17 and 12. He submits that the appellant have annexed a hand sketch map alongwith the suit. He submits that in view of the dispute between the adjoining land owners both the courts ought to have directed joint measurement of both the properties. He

therefore submits that the second appeal would require consideration on the ground that the suit for removal of encroachment could not have been dismissed without a joint survey of both the properties on record.

3. In view of the aforesaid, issue notice to the respondents returnable on 2nd July 2025.

4. In addition to court notice, learned Advocate for the appellant to serve the respondents by private service and file service affidavit before the next date.

[GAURI GODSE, J.]