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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 1361 OF 2025

IN

SECOND APPEAL ST NO. 34383 OF 2024

Audumber Krishna Dange
Since Decd. Thr. Legal Heirs
and ors

.....Applicants

Vs.

Madodari Sahebrao Pawar and ors

.....Respondents

Mr. Purshottam G. Chavan a/w Mr. Sachin Padaye for the applicants

CORAM : GAURI GODSE, J.

DATE : 11th MARCH 2025

ORDER:

1. Heard learned counsel for the applicants. This application is for condonation of delay of 2 years and 263 days in filing the appeal. Learned counsel for the applicants submits that the applicants are the heirs and legal representatives of defendant no. 3 who was unwell and ultimately expired on 10th August 2023. He submits that the reasons for delay are explained in the application.

2. On the merits of the second appeal, learned counsel for the appellants submits that the second appeal would require consideration

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on the ground as to whether the plaintiff would be estopped from seeking declaration of exclusive ownership after making an application under Section 85 of The Maharashtra Land Revenue Code, 1966 (MLRC) for partition for allotting the suit property in the name of defendant no. 2. He, therefore, submits that the proceedings under Section 85 of MLRC have attained finality pursuant to which defendant no. 3 purchased the suit property from defendant no. 2. He, therefore, submits that the second appeal would raise the substantial question of law on the plaintiff's entitlement to seek declaration of title in the absence of any challenge to the proceedings under Section 85 of MLRC.

3. In view of the aforesaid, issue notice to the respondents returnable on 7th May 2025.

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

[GAURI GODSE, J.]