



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CIVIL APPLICATION (CAS) NO.634/2025 IN SECOND APPEAL ST. NO.1514/2025

Smt. Dileshwari w/o Vinod Sahare

...Versus...

Smt. Rekha w/o Neharulal Bisen and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Mr. R.R. Gour & Ms Aparna Sathisaan, Advocates for applicant
Mr. O.W. Gupta, Advocate for respondent No.1
Mr. Narendra Jetha, Advocate for respondent Nos.2 and 3

CORAM : ROHIT W. JOSHI, J.

DATE : 18/09/2025

1. This is an application for condonation of delay in filing the second appeal. The applicant was defendant in the civil Court. Other application was decided in favour of the plaintiffs, in the appeal filed by the defendant No.1. The present appellant who is the original defendant No.2 was not arrayed as respondent. The appeal preferred by defendant No.1 came to be dismissed. Second Appeal No.468/2019 is filed by the defendant No.1 which is admitted on substantial question of law. In the said appeal, present applicant has filed civil application for addition of her name as party, which was registered as Civil Application (CAS) No.276/2020. This application was filed on 05/03/2020. The said application was rejected vide order dated 02/01/2024. This Court has observed in the said order that in the event the applicant deems it appropriate, it was open for her to file separate appeal seeking leave of the Court. In such circumstances, the applicant has filed second appeal along with present

application for condonation of delay on 03/12/2024.

2. The delay in filing appeal is more than 5 years. The delay is sought to be explained by contending that after the appeal was decided on 21/06/2019, application for addition of name was filed in the second appeal filed by defendant No.1. Learned Advocate for the applicant contends that this application was pending from 05/03/2020 till 02/01/2024 when it was ultimately rejected.

3. The appeal is filed on 16/12/2024. Perusal of the application will demonstrate that the same is absolutely silent with respect to reason for not filing appeal within a reasonable period after 02/01/2024.

4. The dispute between the parties pertains to Will executed in favour of respondent Nos.2 and 3 and the present applicant. It is not disputed that the property bequeathed in favour of the applicant was already alienated by the testator during his life time and as such the property in dispute was not subject matter of the suit. The suit was filed by the present respondent Nos.2 and 3 seeking declaration of ownership on the basis of Will and further relief of possession. These reliefs of declaration and possession are sought against the present respondent No.1 alone and not the present applicant who was the original defendant No.2.

5. In that view of the matter, rights of the applicant are also not adversely affected.

6. In view of the above, the civil application stands rejected.

(ROHIT W. JOSHI, J.)