



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

CIVIL APPLICATION (S) NO.779 OF 2023

IN

SECOND APPEAL (ST) NO.7946 OF 2023

[Smt. Jijabai wd/o Ganpat Pendor and Ors. ..Vs.. Subhash S/o Tanba
Bhadikar]

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

Court's or Judge's order

Mr S. D. Borkute, Advocate for Applicants/Appellants.

Mr R. D. Dhande, Advocate for Non-Applicant/Respondent.

CORAM : M. W. CHANDWANI, J.

DATE : 27th FEBRUARY, 2025.

1. Heard.
2. This application is filed to condone the delay of 1585 days caused in filing the appeal.
3. The ground raised in the application is that the impugned judgment was delivered on 24.08.2018. The applicants applied for certified copy of the impugned judgment and received the same on 30.11.2018. The applicants belong to Pardhan Scheduled Tribe Community. They are illiterate, layman and do labour work wherever they get the opportunity. They were not aware about the Court's procedure, therefore, they could not get proper legal advice. It is also contended that in the interregnum period, there was an outbreak of Covid-19 for two years. The learned counsel for the applicants submitted that for the above said reasons, the appeal could not be filed within the prescribed period of limitation.

4. The learned counsel for the non-applicant strongly opposed the application on the ground that the applicants were very well aware about the decision of the Court below, as evidenced by their appearance in a subsequent suit filed by the non-applicant in which they filed their written statement in November, 2019. In spite of that, they did not file the appeal just because they were unable to raise the funds. Therefore, the learned counsel for the non-applicant submits that the delay cannot be condoned. According to him, legal aid services were readily available and therefore, he sought rejection of the application.

5. No doubt, there is a considerable delay in filing the appeal and the applicants had knowledge of the impugned judgment from 30.11.2018. However, the application has not been filed on the premise that the applicants were not aware of the judgment. As the applicants are illiterate, tribal and are doing labour work at different places, therefore, it took time to file the appeal. This very fact has not been denied anywhere in the reply. The Hon'ble Supreme Court in the case of *Kumari Sahu vs Bhubanananda Sahu and Ors.*, arising out of SLP (Civil) No.24443 of 2024, has held that balancing the scales of justice becomes imperative when it comes to such matters, especially given the socio-economic background of a large number of India's population who approach the doors of justice as litigants.

6. Considering the fact that the applicants are tribal and working at different places wherever they get work, substantial

justice cannot be denied on technical grounds. Hence, I am inclined to condone the delay subject to payment of cost of Rs.5,000/- by the applicants to the non-applicant through his counsel. The appeal be registered and numbered accordingly.

7. The application stands disposed of accordingly.

JUDGE

Tambe