



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

Second Appeal No.283 of 2025

Harish s/o Shivdayal Massand (Deceased) through L.Rs. & others
vs.

Gospel for Asia, A religious Charitable and Non-profitable Organization,
through its President and another

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

Court's or Judge's Orders

Mr. S.P. Kshirsagar, Advocate for the Appellants.

CORAM : ROHIT W. JOSHI, J.
DATE : 26th SEPTEMBER, 2025.

Heard the learned Advocate for the appellants.

02. The present appellants had preferred an appeal challenging the judgment and decree 23/02/2021 passed by the learned 7th Joint Civil Judge Senior Division, Nagpur in Special Civil Suit No.353/2003.

03 There is a delay in filing the said appeal for which an application for condonation of delay came to be filed. The delay is about 840 days. The delay was sought to be explained by contending that the father of the applicants had expired after the suit was decided and that the applicants were not aware about the suit, as a consequence of which, they could not file the appeal. As regards knowledge with respect to the said suit, it is stated that while applicant No.1 was shifting certain material from the shop, he sorted certain documents and came across a copy of the plaint in the said civil suit. After that, he contacted the learned Advocate, who was representing the plaintiffs in the said suit.

04. The applicants entered the witness box in order to substantiate the contention in the application. During cross-examination, applicant No.1 admitted that he was attending the Court with his father. It also appears that from the perusal of the order that applicant No.1 has also signed certain documents with respect to measurement of the land in the year 2009 and also appeared in the proceedings before the Sub-Divisional Officer. The learned First Appellate Court has, therefore, found that the explanation offered for the delay was incorrect and, therefore, rejected the application for condonation of delay.

05. Perusal of the application demonstrates that the father of the applicants has expired on 28/09/2021. It is stated that the father was not keeping good health in the year 2015 and onwards. It is difficult to accept that after the demise of the father in the month of September, 2021, the documents were to be sorted out for the first time in March, 2023. That apart, the evidence on record clearly indicates that the applicants, particularly applicant No. 1, was aware about the entire litigation. From the findings recorded by the learned First Appellate Court, it appears that the applicants have not come out with clean hands and tried to put up a concocted story of not being aware about the suit itself.

06. In view of above, no case for interference is made out. The second appeal is, therefore, dismissed with no order as to costs.

JUDGE

**sandesh*