IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

965 CIVIL APPLICATION NO. 5421 OF 2025
IN SA/403/2019

Gangadhar Kisanrao Borde
VERSUS
Dwarkabai Gangadhar Borde And Another
...
Mr. Dhakane Rajendra B., Advocate for Applicant
Mr. H. V. Tungar, Advocate for Respondent No.1

WITH
CIVIL APPLICATION NO. 7112 OF 2026 IN SA/403/2019
....

CORAM : SANJAY A. DESHMUKH, J.
DATE : 07.10.2026

PER COURT :-

CIVIL APPLICATION NO. 5421 OF 2025

1. This is an application seeking condonation of delay of 1753 days caused in filing the present Civil Application and for restoration of Second Appeal No.403 of 2019 to its original stage.

2. Heard learned Advocate for both sides.

3. Heard the learned Advocate for the Applicant. He submits that, by an order dated 28.02.2020 passed by this Court in a group of matters, a conditional order was passed directing the Appellants to supply copies for service of notice upon the Respondents within a period of two weeks, failing which the

Appeals would stand dismissed without further reference to the Court. He submits that, inadvertently, the copies could not be supplied and, consequently, the Second Appeal came to be dismissed pursuant to the said conditional order. He further submits that the execution of the judgment and order has been stayed by this Court, by an order dated 08.01.2020 passed in Civil Application No.8439 of 2019 in Second Appeal No.403 of 2019, till the decision of the Second Appeal, subject to the Appellant depositing an amount of Rs.11,00,000/- (Rupees Eleven Lakhs) before the Trial Court and further depositing an amount of Rs.10,000/- (Rupees Ten Thousand) towards maintenance every month, on or before the 12th day of each month, commencing from February, 2020. He submits that, pursuant to the said order granting stay, the Appellant has been regularly paying the maintenance amount of Rs.10,000/- to the Respondent-wife. He further submits that the delay caused in filing the present application is neither deliberate nor intentional and, therefore, prays that Second Appeal No.403 of 2019 be restored to its original stage.

4. Learned Advocate for Respondent No.1 strongly opposed the application. He submitted that there is no sufficient reason to condone the delay. He prayed to reject the Application.

5. Perused the application. Considering the reasons stated therein and to decide the lis finally on merits, the delay deserves to be condoned as it is not deliberately caused. Therefore, the application deserves to be allowed in the interest of justice. Hence, the following order:

::ORDER::

a. The application is allowed.

b. The delay of 1753 days caused in filing the Civil Application for restoration of Second Appeal No.403 of 2019 to its original stage is condoned.

c. Second Appeal No.403 of 2019 is restored to its original stage, subject to the Applicant supplying copies of the Appeal Memo for service of notice upon the Respondents within a period of two weeks from today.

SECOND APPEAL

1. On supply of the copies, issue notice to the Respondents, returnable on 09.12.2026. The learned Advocate Mr. H. V. Tungar waives notice for Respondent No.1. In addition to the regular mode of service, the learned Advocate for the Appellant is permitted to serve Respondent No.2 by private mode, as permissible in law

[SANJAY A. DESHMUKH, J.]

HRJadhav