IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

56 CIVIL APPLICATION NO. 9065 OF 2025
IN FAST/21665/2025

Rajendra Appasaheb Shinde (deceased)
Through His Legal Heirs Prathama And Othrs
VERSUS
Sunil S/o Appasaheb Shinde

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Advocate for Applicant : Mr. Suhas Shirsath h/f. Mr.M.L.Jadhav
Advocate for Respondents : Mr. N.S..Muthiyan For R/sole
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WITH
CIVIL APPLICATION NO. 9066 OF 2025
IN FAST/21665/2025

CORAM : AJIT B. KADETHANKAR, J.
DATE : NOVEMBER 02, 2026

ORDER :-

The applicant/appelalnt takes exception to the judgment and order dated 03.01.2025 passed by learned 6th Joint Civil Judge, Senior Division, Ahmednagar, in Special Civil Suit No.18 of 2017 by filing the First Appeal. It is stated that the appeal is shortly barred by 32 days. The reasons are explained in the application. In short. it is contended that inadvertantly and due to wrong legal advise the appeal was initially filed before the District Court. However, realising that the jurisdiction rests with this Court said appeal came to be withdrawn and present First Appeal is filed.

2. It is submitted that there is no willful negligence or lethargy on the part of the applicants. Valuable interest of the applicants are involved in the First Appeal, which needs to be heard on merit.

3. Learned advocate for the respondent vehemently opposes this application. He submits that the applicants may not be permitted to take undue advantage of her own wrong.

4. Heard both sides extensively. It is apparent fact that the applicants have fairly submitted that under wrong legal advice, the appeal was initially as filed in the District Cout. Obviously the District Court had no jurisdiction to entertain the appeal. Realising the same, the appeal came to be withdrawn and present appeal is filed. The delay is of 32 days. I find that the it is not a huge delay for which a party should suffer rejection of the application. It is trite law that the rights of the parties ordinarily should not be curtailed on technicality due to small delay. I am convinced with the grounds mentioned in the application.

5. In view of the above, the application stands allowed. The delay is condoned. Appeal be registered.

6. In appeal, issue notice to the respondent. Mr.N.S.Muthiyan, learned advocate waives notice for the respondent. Stand over to 14.12.2026.

7. The application for stay will be considered on the next date of hearing.

[AJIT B. KADETHANKAR, J.]

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