2026:BHC-AUG:55364

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1102 OF 2026

Gangubai Vitthal Mahajan Thr Her General Power Of Attorney
Ganesh Vitthal Mahajan
VERSUS
Bhanudas Shankar Shende And Others
...

Mr. Shirsat Suhas R, Advocate for the Petitioner
Mr. N.D. Batule, AGP for Respondent/State.
Ms. Manjushri V. Narwade h/f Mr. V.P. Narwade, Advocate for Respondent No.1.

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CORAM : ABASAHEB D. SHINDE, J.
DATE : 20th NOVEMBER 2026

P. C. :-

1. Heard learned counsel for the petitioner and learned counsel for respondent no.1. At the outset, learned counsel for the petitioner submits that respondent Nos. 2 and 3 are formal parties and no relief is claimed against them.

2. By this writ petition, the petitioner takes exception to order dated 16.10.2025 passed by Ad-hoc District Judge-3, Ahmednagar in Civil Miscellaneous Application No.181 of 2025, below Exhibit-23, by which the application seeking condonation of delay in filing regular civil appeal at the behest of respondent No.1 came to be allowed.

3. Learned counsel for the petitioner submits that respondent no.1 has utterly failed to show sufficient cause for condonation of delay of 18 months. He further submits that learned Appellate Court has failed to consider that respondent no.1 was not diligent in prosecuting the proceedings. He would submit that even the cost imposed while condoning the delay is unreasonable. He therefore urges that the writ petition deserves to be allowed.

4. Learned counsel for respondent no.1 has supported the impugned order and submits that respondent no.1 has shown sufficient cause for not preferring the appeal within prescribed time of limitation. She further submits that since first appeal is a substantive right of respondent no. 1, he cannot be non-suited on the ground of delay. She would submit that respondent no.1 has already deposited the cost of Rs.4,000/- as directed by learned Appellate Court.

5. Having heard learned counsel for the petitioner and learned counsel for respondent no.1, I find that learned Appellate Court has taken a plausible view in condoning the delay in filing the first appeal. However, considering the fact that the delay is of 18 months, reasonable cost ought to have

been imposed by the Appellate Court. To that extent, I find that the impugned order deserves to be modified. In that view of the matter, I pass the following order :

ORDER

(I) Writ petition is partly allowed.

(II) The impugned order is modified to the extent of directing respondent no.1 to deposit Rs.6,000/- towards cost in addition to earlier cost within a period of four weeks from today. After deposit of cost, the Appellate Court shall make an endeavor to decide the appeal, as expeditiously as possible and preferably within a period of six months from today.

(III) Needless to state that petitioners are at liberty to withdraw the cost deposited by respondent no.1.

(IV) With these directions, writ petition stands disposed of.

(ABASAHEB D. SHINDE, J.)

Mujaheed//