

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 2309 OF 2026

IN

SECOND APPEAL ST. NO. 5880 OF 2026

Nayananben Bhogilal Doshi since ... Applicants.
deceased through LRs & Ors.

Versus

Tejashri Jayantilal Doeshi deceased through ... Respondents.
LRs.

Mr. Abhishek Salian and Mr. Mayuresh Ingale, Advocate for
Applicants.

Ms. Manisha Gosar a/w. Mr. Akshay Bobade, Advocate for
Respondent No. 2.

CORAM: N. J. JAMADAR, J.

DATE : 6th MAY 2026

P.C.:

- 1.** Heard the learned Counsel for the Applicants.
- 2.** This is an application for condonation of delay of 99 days in filing Second Appeal preferred against the Judgment and Decree dated 11th July 2025 passed by the learned District Judge, Pune in Regular Civil Appeal No. 43 of 2019. The Applicants averred that the Appellants who were actively pursuing the appeal are senior citizens. Due to age related constraints, health issues and limited mobility, more time was required to coordinate with the Advocate to file the Second Appeal. One of the Applicants namely, Mr. Bharat Doshi has been suffering from Prostate Cancer. Another

Applicant namely, Mr. Paresh B. Doshi has been suffering from Acute CVA and Metabolic Encephalopathy. Copies of the medical certificates/papers are annexed to the application.

3. The learned Counsel for the Respondents – Original Plaintiffs resisted the prayer for condonation of the delay. It was submitted that the Appellants/Applicants have not satisfactorily accounted for the delay. Only two of the applicants were suffering from ailments, that too for a brief period. According to the learned Counsel for the Respondents, that does not furnish an adequate justification for not filing the Appeal within the statutory period of limitation.

4. I have perused the avernments in the Application. The applicants appear to be of advanced stage. Two of the applicants are stated to be suffering from ailments. It is trite, an application for condonation of delay ought to receive a liberal consideration so as to advance the cause of substantive justice. The Courts lean in favour of the condonation of delay so that lis is decided on merits rather than on technicalities. In view of the situation in the life of the applicants, the reasons assigned for delay appear to be justifiable.

5. The delay and inconvenience caused to the respondents/original Plaintiffs can be addressed by imposing costs.

6. Therefore, I am inclined to allow this application. Hence following order is passed :

- (i) The application stands allowed.
- (ii) The delay in preferring the Second Appeal stands condoned, subject to payment of the costs of Rs. 10,000/- by the applicants to the respondents/original plaintiffs, within a period of three weeks from today.
- (iii) Upon payment of costs, the Second Appeal be registered and listed before the Court for admission on 17th June, 2026.

[N. J. JAMADAR, J.]