



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR
SECOND APPEAL NO. 147 OF 2025

(Gajanan s/o Bhaurao Bhandare vs. Sau. Ratnabai w/o Manoharrao Kamade and another)

*Office Notes, Office Memorandum of Coram,
appearances, Court's orders or the directions,
and Registrar's orders.*

Court's or Judge's order

Mrs. Meena Hiwase, Advocate for appellant.

Mr. Manoj Sable, Advocate for respondent No.1.

CORAM : ROHIT W. JOSHI, J.
JANUARY 08, 2026

- 1) Application for condonation of delay of around 07 years and 10 months caused in filing First Appeal came to be rejected by the learned First Appellate Court, which is the subject matter of challenge in the present Second Appeal.
- 2) The original plaintiff is daughter of defendant No.1 and sister of defendant Nos.2 and 3. The present appeal is preferred by the original defendant No.3. The plaintiff had filed a suit for partition and separate possession against her father and brothers. The said suit was filed on 09/01/2012 and was registered as R.C.S.No.01/2012. The defendants i.e., father and brothers, had filed a written statement opposing the suit; however, they did not conduct cross-examination of the plaintiff and also did not lead any independent evidence. The suit was decreed vide judgment and order dated 14/10/2016. Thereafter, the present appellant/defendant No.3 had filed an appeal challenging the said decree along with an application for condonation of delay bearing Misc. Civil Application No.41/2024. The delay as stated above is of 07 years, 10 months and 06 days. The delay was sought to be explained, contending that the father alone was looking after the litigation and, therefore, appellant/defendant No.3 was not aware about

the developments in the said litigation. It is stated that the father had expired on 11/09/2018. The contention is that knowledge about the decree was gathered upon being served with a notice in the execution proceeding filed by the plaintiff.

3) The learned First Appellate Court has observed that the father was around 82 years old at the time of his demise and, therefore, explanation that father alone was looking after the litigation was not believable. As regards the date of knowledge upon receipt of a notice in the execution proceeding, the learned First Appellate Court has recorded that the said notice was received by the appellant/defendant No.3 on 04/02/2020. The application for condonation of delay and appeal were filed on 21/08/2024. Thus, there is a delay of around four and half years from the date of knowledge of the decree as well, for which no explanation was offered. It is also to be noted that the father had died on 11/09/2018 i.e. before a period of around one and half year from the date of receipt of a notice in execution proceeding. Despite receiving notice of the execution in the year 2020, the present appellant/defendant No.3 did not take effective steps for challenging the decree.

4) Thus, no reason was assigned seeking condonation of delay of 07 years and 10 months caused in filing First Appeal. Even from the date of knowledge i.e. from 04/02/2020, no reason is assigned for condonation of delay. The order passed by the learned First Appellate Court rejecting the application for condonation of delay is, therefore, just and proper. No substantial question of law arises for consideration in the Second Appeal. The Second Appeal is dismissed. No order as to costs.

(ROHIT W. JOSHI, J.)