



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CIVIL APPLICATION (CAS) NO. 498 OF 2026
IN
SECOND APPEAL ST. NO. 8443 OF 2026

ANANDRAO RAMDASJI PIDURKAR AND OTHERS

Vrs.
SAHEBRAO KISANJI TIMANDE

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri R. D. Hajare, Advocate for applicants/appellants.

CORAM: Y. G. KHOBRAGADE, J.
DATE : 18/04/2026.

1. Heard Shri R. D. Hajare, learned counsel appearing for the applicants / appellants at length.
2. By the present application, applicants are seeking condonation of delay of 62 days caused while lodging the appeal against the Judgment and order dated 20/08/2024 passed in M.C.A. No.7/2023 by the learned District Judge-2, Hinganghat, thereby rejected an application under Section 5 of the Limitation Act, 1963 for condonation of delay caused while lodging the First Appeal under Section 96 of the CPC challenging the Judgment and Decree dated 31/10/2022 passed in RCS No.72/2016.
3. The issue about the maintainability of the second appeal arising out of the order passed in application for condonation of delay at the appellate stage

was raised by the Court. In this context, the learned counsel appearing for the applicants placed reliance in Devidas Ganpati Kale (died) through his legal heirs Bhgwan Devidas Kale and others Vrs. Saw. Munirbi Mahebab Karanje, 2023 SCC OnLine Bom.1319, wherein the issue "Whether an order rejecting an application for condonation of delay in filing an appeal under Section 96 of the CPC, is a decree within the meaning of Section 2(2) of the CPC, making it appealable under Section 100 of the CPC". The Division Bench of this Court held in Para No.26 that the order passed by the Appellate Court dismissing the application for condonation of delay in filing an appeal amounts to a decree of the Appellate Court, which is challengeable under Section 100 of the CPC.

4. Therefore, considering the issue involved in the present application, I am inclined to issue notice to the non-applicants.

5. Accordingly, issue notice to the non-applicants, returnable on 12/06/2026.

CIVIL APPLICATION (CAS) NO.499/2026

6. This is an application for grant of stay by the appellants / Judgment Debtors.

7. Since the Judgment and Decree is passed on 31/10/2022 in RCS No.72/2016 and the appeal of the present appellants came to be dismissed because of his application for condonation of delay is rejected.

8. Therefore, I do not find to entertain the prayer for stay at this juncture.

[JUDGE]

Choulwar