

MHBI180041112023



Civil M. A. No.65/2023

(Old No. 67 of 2022)

Saudagar Abdul Baki Gulam Mustafa

Vs.

Ashruba Sopan Neharkar (died) & Ors.

:: ORDER BELOW EXH. 1 ::

Application for condonation of delay.

1. Perused the application and say of the respondents. Heard learned advocate for applicants and respondent Nos. 1A, 1D to 1K, 2 and 3. Respondent No. 4A and 4B served by public notice, but they remained absent, hence delay condonation application proceeded exparte against them. Respondent No. 5 though appeared but not filed say hence, this application proceeded without his say.

2. The learned Advocate for applicants argued as per the application. Mainly argued on the point that during course of trial three yelder brothers of appellant died. Except him, there is no male member to look-after their family. There is miscommunication between applicants and advocate because of pandemic situation in the year 2019-2022. The appellant did not personal knowledge of final decision. As soon as he got knowledge of the same he applied for certified copy and preferred said appeal. There is no intentional and deliberate delay on the part of appellants. If the said delay is not condoned then appellants will suffer substantial loss to the legal rights which cannot be

compensated in the terms of money. With this request to condone the delay.

3. Per contra, the learned Advocate for respondents argued that there is no sufficient cause or reasons to condone the delay. The appellants sold out said property to another persons, though there is permanent injunction against him. Accordingly, he has no right to prefer an appeal. There are many proceeding before Revenue authority wherein respondents had taken objection and thereby mutation entry of third party purchaser being rejected. There is eight months delay after obtaining certified copies despite of that there is no explanation has been given anywhere about said delay.

4. This court has gone through the record. Original suit has been decreed on 24/11/2021 and this appeal is preferred on 30/08/2022. Considering the delay and the reasons given by the appellants in the paragraph No. 5 about the death of his three brothers and Covid pandemic period is found just and sufficient reasons. In respect of the argument of respondents that already these appellants sold out the said property to third party accordingly he does not have right to prefer an appeal. In fact the legal position is the permanent injunction is against the said appellants in the suit R.C.S. No. 210/2004, he was party in that original suit and the suit is decreed

against him, So he is aggrieved person by the said judgment, decree and order. Accordingly, he has right to prefer an appeal. The facts above he sold property to another person in different aspects.

5. To some extent it found there is delay on the part of appellants to prefer an appeal, but it requires to give fair opportunity to decide the matter on merits for final adjudication of dispute. Accordingly, this application is allowed with costs of Rs. 3,000/- pay to respondents (who are appeared in this proceeding).

ORDER

1. Application is allowed.
2. Delay is hereby condoned with costs of Rs.3,000/-. The appellants has to be paid said amount to the appeared respondents within 15 days from today.
3. After compliance of said order, the appeal attached herewith be registered.

Date : 07/04/2026.

(Rahimat K. Shaikh)
Ad-hoc District Judge-1, Kaij

CERTIFICATE

I affirm that the contents of this PDF file are word to word as per original judgment/order.

Dictated on : 07.04.2026
Transcribed on : -----
Checked & signed on : 07.04.2026

Sd/-xx
(S. S. Nakhate.)
Stenographer Grade-3