

MHRG170018982023



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IN THE COURT OF ADDITIONAL SESSIONS JUDGE PANVEL,
AT PANVEL - RAIGAD
ORDER BELOW EXHIBIT NO.1 IN CIVIL M.A.101/2023
(Dated 10/06/2026)

Ramdas Shankar Gaikar Vs. Mahadeo Ambo Gaikar and others

The applicant Ramdas Shankar Gaikar has filed present application for condonation of delay in preferring an appeal against the Judgment and Decree passed by Ld.Civil Judge, Senior Division, Panvel (Hereinafter referred to as the 'Ld.Trial Court') in R.C.S. No.110/2013 on 21/06/2022)

2] It is the case of applicant that, opponent No.1 had filed R.C.S.No.110/2013 against him and other opponents for partition, declaration and permanent injunction. The Ld. Trial Court has pleased to decree the said suit on 21/06/2022. being Being aggrieved and dissatisfied with impugned Judgment and decree passed by Ld. Trial Court, he preferred regular appeal. However, there is delay of 14 months in preferring said appeal.

3] Further it is case of applicant that upon passing of impugned judgment and decree, for the last 14 months, number of

times he tried to obtain certified copies of decree and other relevant documents, however, exhibit Nos.07, 40, 41, 92, 93, 94 were not bearing the signature of the presiding officer. Therefore he could not obtain certified copies of said documents. At last on 04/09/2023 he received the certified copies of all the requisite documents and thereafter within the period of 30 days he preferred an appeal. But unfortunately delay of 14 months has been caused in preferring the appeal. Said delay is not intentional and deliberate but due to aforesaid reason, he could not file an appeal within stipulated period. Hence, it is prayed by applicant that the delay be condoned.

4] Despite due service of notice, opponent Nos.8 and 9 failed to appear. Hence, present application proceeded 'Ex-parte' against opponent No.8 and 9. Opponent Nos.1 to 7 appeared. Opponent Nos.2 to 7 filed their respective say on overleaf of the application. They stated that necessary order may be passed.

5] The opponent No.1 strongly resisted the application by filing say vide Exh.23. It is stated that the reason assigned by the applicant for delay is not true and legal. The applicant has not come before the Court with clean hands. He suppressed material facts from this Court. Further it is stated that the applicant was well aware about the impugned Judgment and Decree passed by Ld. Trial Court. With intent to deprive the opponent No.1 from enjoying the fruits of the Decree, the applicant preferred an

appeal at a belated stage. It is well settled that the person who seeks condonation has to give sufficient cause and be vigilant about his rights and it is the bounden duty of such person to give sufficient cause as to why he could not approach to the Court within stipulated period. In present case the applicant has absolutely failed to give plausible reason for the default. Further it is stated by opponent No.1 that there is no substance in the application, hence, it is prayed by him that the application be rejected.

6] Heard Ld. Adv.Shri V. S. Kane for the applicant and Ld. Adv.. Shri P. V. Mhatre for opponent No.1. Perused application, say filed by opponent No.1 and documents placed on record.

7] The applicant has filed his affidavit in support of the application wherein he has specifically assigned the reason for the default. Therefore, there is no reason to disbelieve the version of applicant. Furthermore, it is pertinent to note that the applicant has challenged the legality of impugned judgment and decree passed by Ld. Trial Court, therefore, the said same are required to be scrutinized within four corners of the law. No doubt the delay of 14 months definitely comes within the purview of term 'inordinate delay' but considering reasons assigned by applicant, I do not find any reason to disbelieve the same. It is also pertinent to note that refusing to condone delay can result in meritorious matter being thrown out at the very threshold and cause of justice

being defeated. On the contrary when the delay is condoned, the highest that can happen is that a matter would be decided on merits after hearing the parties. Considering aforesaid aspects and reason mentioned in the application, it is justifiable to condone the delay. However, at the same time it is imperative on the part of applicant to bear some costs. Hence, I pass following order.

ORDER

1. The application is allowed.
2. The delay of 14 months caused in preferring regular civil appeal against the impugned Judgment and Decree passed by Ld. Trial Court in R.C.S.No.110/2013 on 21/06/2022 is hereby condoned subject to costs of Rs.5,000/- to be deposited in the Court within a period of one month from the date of this order.
3. On depositing costs of Rs.5,000/- in the Court the Regular Civil Appeal be registered as per rule.

Panvel
Date :- 10/06/2026

(S. R. Ugale)
Additional Sessions Judge,
Panvel

CERTIFICATE

I affirm that, the contents of this P.D.F file judgment/ order are same, word to word, as per the original Judgment.

Name of Stenographer : S. J. Sheth (Grade 1)
Dictation given on (direct) : 10/06/2026
Order signed by PO on : 10/06/2026
Order uploaded on : 10/06/2026