

MHSN040008512020



Civil Misc. Application No.34/2020

Shankar Shamrao Kharat, etc.8 Applicants

Vs.

Sadashiv Shankar Kharat etc. 2 Respondents

ORDER BELOW EXH. 1

1] The applicants have filed this application for condonation of delay of 60 days for preferring review application against the judgment passed in Regular Civil Appeal No.107/2014, by District Judge-1 Islampur on 02.03.2020 whereby the Ld. Court has allowed the appeal filed by respondent no.1 (appellant/original defendant no.3) and dismissed the R.C.S.No.28/2008 filed by applicants (original plaintiffs).

2] Read the application and reply filed by respondents no.1A to 1D at Exh.23. Respondent no.2 and 3 failed to appear before the court though duly served with notice Exh.6, hence application proceeded exparte against respondent no.2 and 3.

3] Heard ld. Advocate for the applicants and ld. Advocate for respondent no.1A to 1D. Perused the record.

4] Ld. Advocate for the applicants has submitted that due to pandemic situation of COVID-19 and the lock-down period the applicant could not get the information of the decision. The applicant no.1 is a senior citizen and he was operated. Therefore, there is delay of 60 days in preferring the review application. It is further submitted that the decree has been passed on account of some mistake or error apparent on the face of record. Therefore the applicants desires to obtain review of the judgment and decree. The delay is not deliberate. Therefore, he prayed for condonation of delay.

5] Ld. Counsel for respondent no.1A to 1D has submitted that there are no sufficient grounds for condonation of delay. The Regular Civil Appeal No.107/2014 has been decided on merits by considering all the contentions raised by the applicants and by giving full opportunity to both the parties. There is no any mistake or error apparent on the face of the record. Therefore, the review application is not maintainable. The applicants have to prefer second appeal but they have wrongly chosen to prefer review application without any grounds contemplated under Order 47 Rule 3 of

C.P.C. Therefore, Ld. Counsel for respondents prayed to reject the application.

6] On perusal of record it shows that the RCA No.107/2014 has been decided on 02.03.2020. It appears that the application for certified copy was given on 09.03.2020 and the applicants received the certified copy on 12.06.2020. It appears that the appeal has been decided during the pandemic situation of COVID-19.

7] The Hon'ble Supreme Court in **Re-Cognizance for Extension of Limitation, in Misc. Application No.21 of 2022** by order dated 10.01.2022 considering the out break of COVID-19 Pandemic, in continuation of orders dated 08.03.2021, 27.04.2021 and 23.09.2021, directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi judicial proceedings. In the present case, the judgment in RCA No.107/2014 was passed on 02.03.2020 and the Hon'ble Apex Court has excluded the period from 15.03.2020 till 28.02.2022 from the period of limitation due to pandemic situation of COVID-19. The review petition came to be filed on 05.11.2020. Therefore, the decision of the Hon'ble Apex Court is applicable to the present set of facts. The respondents have raised objection in respect of the

maintainability of the review application. The merits of the review petition cannot be discussed in this delay condonation application. Since the period of limitation has been extended due to pandemic situation of COVID-19, the applicants are entitled for condonation of delay of about 60 days caused in preferring the review petition. Therefore, the application for condonation of delay deserves to be allowed. Hence the following order-

ORDER

1. The application is allowed.
2. The delay caused in preferring review application against the judgment and decree passed by Hon'ble District Judge-1, Islampur in RCA No.107/2014 on 02.03.2020 is hereby condoned.
3. The review application be registered after due scrutiny.
4. The application is disposed of accordingly.

Date -30-06-2026.

(R.B.Rote)
District Judge-2 Islampur.