

MHAH070010022022 	Presented on	:	19/10/2022
	Registered on	:	21/10/2022
	Decided on	:	23/10/2024
	Duration	:	Y. M. D.
			02 - 00 - 02

IN THE COURT OF DISTRICT JUDGE-1, SANGAMNER,
AT-SANGAMNER, DIST. AHMEDNAGAR.
(Before D. S. Ghumare)

Civil M.A. No.61/2022

Exh.No.63.

1. **Raosaheb Namdev Thete**
Age- 55 Years, Occu. Agri.
R/o. Nimgaon Jali,
Tal.Sangamner, Dist.Ahmednagar

..Appellant.
..(Original Plaintiff)

Versus

1. **Vimal Nana Thete**
After marriage Vimal Raosaheb Magar
Age – 80 Yrs., Occu. Agri.
R/o. Gogalgaon, Tal.Rahata,
Dist.Ahmednagar
2. **Pandharinath Bhima Thete (Dead)**
- 2A) **Sakhubai Pandharinath Thete**
Age – 78 Yrs., Occu. Household
- 3) **Balasaheb Pandharinath Thete**
Age – 60 Yrs., Occu. Agri.
- 4) **Jitendra Balasaheb Thete**
Age – 37 Yrs., Occu. Agri.
- 5) **Mahendra Balasaheb Thete**
Age – 35 Yrs., Occu. Agri.
Nos.2A to 5 R/o. Nimgaon Jali,
Gaothan, Tal.Sangamner, Dist.Ahmednagar
- 6) **Sindhubai Rakhmaji Jondhale**

Age – 60 Yrs., Occu. Agri.

R/o. Kokangaon, Tal.Sangamner, Dist.Ahmednagar

7) Mandabai Eknath Dengale

Age – 57 Yrs., Occu. Agri.

R/o. Nimgaon Jali, Tal.Sangamner, Dist.Ahmednagar

**8) Through Nimgaonjali Vi.Ka.Se.So.
Chairman,**

**9) Through Raje Shivaji Gramin Bigarsheti Sah. Patsanstha,
Mar. Nimgaonjali,
Chairman,**

Nos.8 & 9 R/o. Tal.Sangamner, Dist.Ahmednagar

10) Ahilu Tukaram Thete (Dead)

11) Ambabai Ahilu Thete (dead wife)

12) Namdev Ahilu Thete (dead son)

13) Mhalsabai Sarjerao Dengale (dead daughter)

13A) Raghunath Sarjerao Dengale

Age – 65 Yrs., Occu. Agri.

13B) Pandharinath Sarjerao Dengale

Age – 63 Yrs., Occu. Agri.

13C) Eknath Sarjerao Dengale

Age – 60 Yrs., Occu. Agri.

13D) Shivnath Sarjerao Dengale (Dead)

13D-1) Kusum Shivnath Dengale

Age – 46 Yrs., Occu. Agri.

13D-2) Nilesh Shivnath Dengale

Age – 36 Yrs., Occu. Agri.

13D-3) Lalita Indrabhan Argade

Age – 40 Yrs., Occu. Household

13E) Suresh Sarjerao Dengale

Age – 55 Yrs., Occu. Agri.

13ee) Ramesh Sarjerao Dengale

Age – 52 Yrs., Occu. Agri.

13O) Indubai Gangadhar Satpute

Age – 70 Yrs., Occu. Household

13OO) Nandabai Changdev Wani

Age – 50 Yrs., Occu. Household

13A) Alkabai Janardhan Aabhale

Age – 48 Yrs., Occu. Household

Nos.13A to 13 EE I 13D to 13D-3

All R/o. Nimgaonjali, Tal.Sangamner,
Dist.Ahmednagar.No.13O R/o. Pavbaki, Tal.Sangamner,
Dist.Ahmednagar.Nos.13OO & 13 A both R/o. Chincholi Gurav,
Tal.Sangamner, Dist.Ahmednagar.**14) Tulsabai Vithoba Khatode (Dead)****14A) Balasaheb Vithoba Khatode**

Age – 65 Yrs., Occu. Retired

14B) Dattatraya Vithoba Khatode

Age – 63 Yrs., Occu. Agri.

14C) Gangadhar Vithoba Khatode

Age – 60 Yrs., Occu. Agri.

14D) Suryabhan Vithoba Khatode

Age – 58 Yrs., Occu. Agri.

14E) Sakhubai Vithoba Khatode

Age – 55 Yrs., Occu. Household

Nos.14A to 14E All R/o. Kasarwadi,
Tal.Sangamner, Dits.Ahmednagar**15) Bhikubai Tukaram Jondhale (Dead)****15A) Ramnath Tukaram Jondhale**

Age – 64 Yrs., Occu. Agri.

No.15A R/o. Nimgaonjali,

Tal.Sangamner, Dist.Ahmednagar

16) **Nagar District Bhuvikas Bank, Ahmednagar**

17) **Sahebrao Namdev Thete**
Age – 62 Yrs., Occu. Agri.

18) **Bapu Namdev Thete**
Age – 50 Yrs., Occu. Agri.

19) **Draupadabai Namdev Thete (Dead)**

19A) **Sindhubai @ Laxmibai Rakhma Jondhale**
Age – 68 Yrs., Occu. Agri.

19B) **Mandabai Eknath Dengale**
Age – 63 Yrs., Occu. Agri.
Nos.17, 18, 19B R/o. Nimgaonjali,
No.19A R/o. Kokangaon,
Tal.Sangamner, Dist.Ahmednagar

...Respondents.
..(Original defendants)

Appearance :-

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Shri. V.S. Deshmukh, the learned advocate for the Appellant.

Shri. J. K. Pawar, the learned advocate for the Respondent Nos.3 to 5.

Shri. Shahaji Gawande, the Ld. advocate for the Respondent No.13A.

Ex-parte against the respondent Nos.1, 6 to 9, 13B, 13C, 13D-1 to 13D-3, 13E, 13EE, 13U, 14A, 14C to 14E, 15A, 17 to 19B.

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: J U D G M E N T :

(Delivered on 23/10/2024)

This is an application to condone the delay of **26 days** in filing an appeal against the Judgment and order dt.28/07/2022 passed by the Ld. 5th Jt. C.J.S.D., Sangamner in RCS No.688/2013.

2] The appellant is aggrieved of an Judgment and order dated 28.07.2022 made in RCS No.688/2013. Therefore, the applicant had

wished to file an appeal challenging the aforesaid Judgment dated 28/07/2022.

3] The applicant has moved this appeal seeking condonation of delay on the ground that due to agricultural work he could not communicate to his advocate.

4] The delay condonation application is vehemently resisted by the respondent Nos.3 to 5 say **on the backside of the application**. They have contended that false grounds had been put up by the applicant in seeking condonation of inordinate delay. The respondents have contended that he applicant was having full knowledge of the proceedings and he has put false grounds of agricultural work to condone delay. The respondents have specifically contended that the application for condonation of delay being devoid of merits deserves to be rejected.

5] The following points arise for determination and my findings are against each of them for the reasons stated below :-

	POINTS	FINDINGS
1.	Whether there is sufficient cause for condoning the delay of 26 days ?	Yes.
2.	What order ?	The application is allowed.

REASONS

POINT NO. 1 :

6] I have perused the application. I have heard the Ld. Advocate Shri. V. S. Deshmukh for the appellant and Ld. Advocate

Shri. J. K. Pawar for the respondent Nos.3 to 5.

7] Ld. Advocate Shri. Deshmukh for the appellant contended that it is settled principle of law that the court should have liberal approach in condoning the delay with a view to advance the cause of justice by allowing the parties to get their *lis* decided on merits. He further contended that the delay has been caused due to reason beyond his control. He further contended that the appellant was ill and so it could not file the appeal within period of limitation and as such it can be said that there is sufficient cause to condone the delay in preferring application within time prescribed by Law.

8] It may be stated here that in every place of delay there can be some lapse on the part of litigant concerned. But, that alone is not enough to turn down his plea to condone delay and thereby shut the door of Court of law to him. Then there is no presumption that delay in approaching the Court is always deliberate. In the present case, appellant's conduct does on the whole warrant to castigate him as an irresponsible litigant as due to agricultural work of appellant.

9] That apart the rules of limitation are meant to destroy rights of parties. The Court has to adjudicate the dispute between the parties on its merits to advance sub-national justice. Considering, the reasons put-forth of agricultural work, I am satisfied that the delay 26 days is properly explained and sufficient cause has been shown by the appellant for the delay in preferring this appeal.

10] It may be stated that time and again it is held by Their Lordships of Apex court that term '**sufficient cause**' must receive

liberal meaning so as to advance the cause of justice and that too with a concept of reasonableness as it is understood in its general connotation. The delay of 26 days is short. I do not find any negligence or inaction on the part of the appellant as he and his Ld. Advocate had come to knowledge about the decision of the said Judgment. For these reasons, the application for condonation of the delay deserves to be allowed. Consequently, point No.1 is answered in the affirmative.

POINT NO.2 :

11] In view of finding arrived at on point No.1, the application deserves to be allowed. But, with cost as the respondents should be compensated this because it would be a salutary approach for the Court that when he condones the delay due to laches on the part of the applicant, it should compensate the other party for his loss. In facts and circumstances, the costs of Rs.500/- would be reasonable.

In the result, the following order is made :

ORDER

1. The application for condoning delay in preferring the appeal is allowed, subject to cost of **Rs.500/-(Rs. Five Hundred only)** to be paid to the respondent Nos.3 to 5 by the applicant.
2. The office is directed to register the appeal after it's scrutiny as per Law.
3. The application is accordingly disposed-of.

Sangamner.
Date : 23/10/2024.

(**D.S. Ghumare**)
District Judge-1
Sangamner