

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 1 OF 2019  
IN  
FIRST APPEAL STAMP NO. 26288 OF 2019**

Sheshmal Ratanji Solanki (Deceased)	]	
Through LRS.	]	
1 (A) Leribai Sheshmal Solanki (Deceased)	]	
1 (B) Devibai Vinod Jain And Others	]	.... Applicants
		(Org. Defendants)

IN THE MATTER BETWEEN

Sheshmal Ratanji Solanki (Deceased)	]	
Through LRS.	]	
1 (A) Leribai Sheshmal Solanki (Deceased)	]	
1 (B) Devibai Vinod Jain And Others	]	.... Appellants
		(Org. Defendants)

Versus

Deepchand Dharmchand Jain	]	.... Respondent
		(Org. Plaintiff)

Mr. Ruchir Tolat i/b M/s. L.C.Tolat & Co., Advocate for the Applicants.

Mr. Girish Agrawal, Advocate for Respondent.

**CORAM : K.K. TATED &  
SARANG V. KOTWAL, JJ.**

**DATE : 08<sup>th</sup> JANUARY, 2020**

**P.C.**

. Not on board. At the request of learned counsel for the applicants the matter is taken on board for urgent order.

2. Heard learned Counsel for the parties.
3. By this application, the applicants/original defendants are seeking condonation of delay of 161 days in filing the First Appeal challenging the judgment and decree dated 11/01/2019 passed by the learned 12<sup>th</sup> Jt. Civil Judge Senior Division, Pune at Vadgaon Maval in Special Civil Suit No. 449/1989 directing the defendants to pay sum of Rs.2,98,10,253/- to the plaintiff as per his share in the agreement dated 20/03/1988 along with further simple interest @ 6% p.a. on principal sum till realization.
4. Learned counsel for the applicants submits that in the Trial Court the matter was transferred from one court to other court. He submits that these facts were not informed by their Advocate to them. He further submits that neither they have received any notice from the court about transfer of the matter from one court to other court. Hence, there is delay in filing the appeal before this court. He submits that in the interest of justice, this Hon'ble Court be pleased to condone the delay in filing the first appeal. He submits that if delay is not condoned, irreparable loss will be caused to the applicants.
5. Learned counsel Mr. Girish Agrawal appearing on behalf of Respondent/Original Plaintiff vehemently opposed the present application. He submits that applicants failed to make out any sufficient cause for condonation of delay. Hence, there is no substance in the application and the same is required to be dismissed with costs.

6. We heard both the sides at length.

7. Considering the submissions made by learned counsel for the applicants and the reasons disclosed in the application, we satisfy that the applicants have made out a case for allowing this application. But at the same time, they have to pay cost of Rs.25,000/- to the Respondent/Original Plaintiff or his Advocate. Hence, the following order.

**ORDER**

1. Delay in filing the First Appeal is condoned on payment of cost.
2. Applicants to pay cost of Rs.25,000/- (Rupees Twenty Five Thousand Only) to the Respondent/Original Plaintiff or his Advocate on or before 13/01/2020 and place on record receipt to that effect failing which the Interim Application shall stand dismissed without further referring back to the court.
3. The Interim Application stands disposed of accordingly.

**(SARANG V. KOTWAL, J.)**

**(K.K. TATED, J.)**