

ITEM NO.12

COURT NO.11

SECTION IX

S U P R E M E                      C O U R T   O F   I N D I A  
R E C O R D   O F   P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil)...../2010  
CC 15851-15852/2010

(From the judgement and order dated 01/04/2010 in CA No. 14/2010 with CA No. 15/2010 & SA No. 27573/2009 of The HIGH COURT OF BOMBAY AT AURANGABAD)

VISHWANATH ASARAM SONWANE &amp; ORS.

Petitioner(s)

VERSUS

SAVITRABAI EKNATH SONWANE &amp; ANR

Respondent(s)

IA 1-2 (c/delay in filing SLP, c/delay in refiling SLP)

Date: 25/10/2010                      These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI  
HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Petitioner(s)                      Mr. Atul B. Dakh, Adv.

For Respondent(s)

UPON hearing counsel the Court made the following  
O R D E R

Delay condoned.

These petitions are directed against order dated 01.04.2010 passed by the learned Single Judge of the Bombay High Court, Aurangabad Bench whereby he dismissed the application filed by the petitioners for condonation of 2524 days' delay in filing the second appeal and consequently dismissed the second appeal as barred by time.

The suit filed by the respondent for partition, separate possession and mesne profits in respect of ancestral property belonging to her husband-Eknath Sonwane was partly decreed by the trial Court vide judgment dated

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15.11.1997. Regular Civil Appeal No.22 of 2006 filed by the respondent was also partly allowed by the Lower Appellate Court.

The petitioners did not challenge the appellate judgment by filing appeal within the prescribed period of limitation i.e. 90 days but did so after 2524 days. They also filed an application for condonation of delay.

The learned Single Judge held that the cause shown by the petitioners for condonation of delay was wholly unsatisfactory and accordingly dismissed the application for condonation of delay. The learned Single Judge then dismissed the second appeal as barred by time.

We have heard Shri Ravindra Keshavrao Adsure, learned counsel for the petitioners and perused the record. We are in complete agreement with the High Court that the cause shown by the petitioners for condonation of delay was wholly unsatisfactory. The assertion of the petitioners that their advocate did not give information to them

regarding disposal of the regular civil appeal filed by the  
respondent is too naive to be accepted. It is impossible  
to believe that even though the petitioners had engaged an  
advocate to contest the civil appeal, they did not bother  
to contact him for more than seven years to ascertain the  
progress of the appeal. This being the position, we do not  
find any valid ground much less justification for  
interference with the discretion exercised by the High  
Court not to condone the delay of seven years.  
The special leave petitions are accordingly  
dismissed.

(A.D. Sharma)  
Court Master

(Phoolan Wati Arora)  
Court Master