

(2002) 03 BOM CK 0040

In the Bombay High Court

Case No : Civil Application No. 976 of 2001 in Second Appeal Stamp No. 17823 of 2001

Smt. Sugarbee Kacharuddin Kordu

APPELLANT

Vs

Jantababee Kasim Dange and Others

RESPONDENT

Date of Decision : 13-03-2002

Acts Referred:

Citation : (2002) 03 BOM CK 0040

Hon'ble Judges : J.G. Chitre, J

Bench : Single Bench

Advocate : V.S. Mhaispurkar, for the Appellant; Smita Mane, for the Respondent

Final Decision : Dismissed

Judgement

J.G. Chitre, J.—Shri Mhaispurkar appearing for the applicant submitted that the applicant happens to be a poor agriculturist lady and therefore she was not aware of the delay caused and her right to file the second appeal. He further submitted that talks of amicable settlement were going on between the litigating parties and that also caused the delay. He submitted that keeping in view these aspects, the delay of 192 days be condoned. This prayer has been vehemently opposed by Miss Smita Mane appearing for the respondents. She submitted that after the first appeal was dismissed, the review application was filed by the present applicant which was dismissed on 16/9/2001. She further submitted that on 23/3/2001 the applicant had filed a suit against the present respondents which was dismissed on 10/10/2001. She submitted that when the applicant was engaged in so many legal battles in the Courts it cannot be said that she was ignorant of delay and the ways available to her for moving an application for condonation of delay in filing the second appeal.

2. When the queries were made, the Counsel appearing for the applicant informed this Court that in the said suit the witnesses were examined and cross-examined also. It means that there is no substance in the submissions advanced on behalf of the applicant which is revolving around the talks of amicable

settlement. Apart from that filing of litigations shows that the applicant was well acquainted with the Court atmosphere and her legal rights in litigations which she pursued. The applicant should have filed the second appeal when the review application was disposed of or she should have filed it earlier to that also.

3. It is true that Courts should be considerate while dealing with and considering the prayer for delay condonation. Courts should also keep in view the observations made by the Supreme Court in the case of Collector, Land Acquisition, Anantnag and Another Vs. Mst. Katiji and Others, . For applying the criteria about which the Supreme Court has made observations in some cases, the situation should be appropriately a fitting one. The law does not help the indolents. The broader approach should be made available to those litigants who are suffering on account of grounds which are beyond their control. But persons who are assisted by the lawyers, engaged in legal battles, who keep sleeping for considerable days without following proper remedies for venting out their grievances are to be treated in different ways. The litigants who fight legal battles, use all available remedies for venting out their grievances but do not file appropriate proceedings at proper time without any justifiable ground, should be exposed to the natural consequences of their tricky behaviour. Such tricky persons cannot be permitted to reserve the last remedy for getting solace after getting defeated in self brought battles of legal litigations. The longer period of delay sought to be condoned is also to be considered appropriately in context with their oblique intentions. When the litigant is stretching the legal battles to maximum and thereafter making the prayer for condonation of delay of a longer period has to be dealt with properly, because such litigants create the crowd of litigations and block the ways of needy litigants in getting due relief from the Courts. Such litigants and their tricks are the obstacles in continuous flow of administration of justice.

4. Thus keeping in view the important facets exposed by this matter, the prayer for delay of condonation stands dismissed.