

IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 566 OF 2015

IN

STAMP NUMBER MAIN NO. 2206 OF 2015

SHRI JOSE FERNANDES.

... Applicant

Versus

SHRI ISALISTO FRANCIS RODRIGUES.

... Respondent

Ms. Asha A. Desai, Advocate for the Applicant.

Ms. Queency D'silva, Advocate for the Respondent.

Coram:- C. V. BHADANG, J.

Date:- 29th September, 2015

P.C.:

This is an application for condonation of delay of 119 days in filing the Second Appeal.

2. It is contended that the First Appellate Court had dismissed the appeal on 12/12/2014 and this was not informed to the applicant by the advocate. The learned Counsel for the applicant applied for the certified copy on 23/12/2014 and it was collected on 28/01/2015. It is contended that the applicant was required to look after the health of his ailing father which started deteriorating from February, 2015 onwards as his father was advised bed rest till April, 2015. The applicant has produced a certificate dated 17/07/2015 from Dr. Mohan Bandodkar which is in respect of advising bed rest to the father of the applicant from 1/02/2015 to 30/04/2015. The applicant

was also suffering from fluctuating blood sugar. The applicant had gone to Nepal on 11/05/2015 and had returned and joined his duty on 24/05/2015. He learnt about passing of the impugned order only on 16/06/2015 when he received a notice from the executing Court. Thereafter, the applicant immediately approached his Counsel and filed the appeal by which time there was a delay of 119 days. The application is supported by an affidavit of the applicant.

3. The respondent has filed reply and has opposed the application on the ground that the applicant has not made out sufficient cause for condoning the delay.

4. On hearing the learned Counsel for the parties and on perusal of the record and considering the extent of delay, I find that the applicant has made out sufficient cause for not filing the appeal within time. Accordingly, the delay is hereby condoned. Application is allowed in the aforesaid terms. Let the Second Appeal be registered.

C. V. BHADANG, J.

NH