

**FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE JURISDICTION.**

**CIVIL APPLICATION NO. 2314 OF 2015
IN
FIRST APPEAL (ST) NO. 10902 OF 2015**

Shri. Shashikant Appu Nair	... Applicant
V/s.	
Shri. Rajan Appu Nair	... Respondent

Mr. Sushil Inamdar for the applicant.
None for the respondent.

**CORAM : K. K. TATED, J.
DATED : 11/08/2015.**

P.C.:

- . Heard learned Counsel for the applicant.
- 2 None for the respondent, though duly served.
- 3 The learned counsel for the applicant filed affidavit of service dated 29.07.2015 showing that the papers and proceedings are served on Advocate Nilesh Patil, who filed caveat on behalf of respondent.
- 4 This Application is preferred by the plaintiff for condonation of 705 days delay in filing First Appeal challenging the judgment and decree dated 02.05.2013 passed by Bombay City Civil Court, Dindoshi in S.C. Suit No 1996 of 2007.
- 5 The learned counsel for the applicant submits that the

applicants' daughter as well as son were not keeping well. Both of them were admitted in the hospital. He submits that thereafter, the applicant himself was not keeping well. He was suffering from chest pain. In support of these contentions, the applicant has placed on record the medical certificate issued by Doctor. He further submits that because of financial crisis, there was delay on part of the applicant to take appropriate steps for filing First Appeal in this Court. In support of these contentions, the learned counsel for the applicant relies on paragraph 6 and 7 of Civil Application.

6 The learned Counsel for the applicant submits that in the interest of justice, this Hon'ble Court be pleased to condone the delay in preferring the present First Appeal. He submits that the Applicant has good chance of success. He submits that if the delay is not condoned, irreparable loss, harm and injury will be caused to the Applicant. On the basis of this submission, the learned counsel for the Applicant submits that the delay in preferring the First Appeal may be condoned.

7 I heard learned counsel for the applicant at length.

8 Considering the submissions made by the learned counsel for the Applicant, the averments made in the paragraph 6 & 7 of the Civil Application and the law laid down by the Apex Court in the matter of *N.Balkrishnan Vs. M. Krishnamurthy (1998) 7 SCC 123* , I am satisfied that the Applicant has made out a case for allowing the present Civil Application.

9 Hence, the following order:

- a) Delay of 705 days in filing First Appeal is condoned.
- b) Applicant to pay either to the Respondent or deposit sum of Rs.25,000/- by way of cost in the Registry of this Court within six weeks from today, failing which the Civil Application shall stand dismissed without further reference to the court.
- c) Respondent defendant is entitled to withdraw cost amount without furnishing any security.
- d) Civil application stands disposed off accordingly.

(K.K.TATED, J.)