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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CIVIL REVISION APPLICATION NO.209 OF 2016

Sau. Vaishali Kiran Kolhe,
Age 52 Years, Occu. Agriculturist,
R/o Salve, Taluka Dharangaon,
District Jalgaon
Through General Power of
Attorney Holder
Vitthal Ramdas Patil,
Age : 75 years, Occu. Agriculturist,
R/o Babhulgaon, Post Kharde Bk.
Taluka Dharangaon,
District Jalgaon

..APPLICANT
(Orig. Plaintiff)

VERSUS

Govind Baburao Patil,
Age : 55 Years, Occu. Agriculturist,
R/o Kharde Bk., Taluka Dharangaon,
District Jalgaon

..RESPONDENT
(Orig. Defendant)

Mr S.H. Tripathi, Advocate for applicant;
Mr Prashant Nagargoje, Advocate holding for Mr V.B. Patil, Advocate for
respondent

CORAM : N.W. SAMBRE, J.

DATE : 7th June, 2017

ORAL ORDER

Heard learned Counsel appearing on behalf of the applicant-plaintiff.

2. The applicant-plaintiff had instituted Regular Civil Suit No.177 of 2008 for specific performance and possession, which came to be decreed vide judgment dated 4th April, 2015.

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3. Against the aforesaid judgment and decree, the respondent-defendant preferred an appeal along with an application for condonation of delay being Misc. Civil Application No.84 of 2016. Learned appellate Court i.e. District Judge-5, Jalgaon, vide order dated 18th October, 2016 condoned delay of one year and two days caused in filing the appeal. As such this Revision by the applicant-plaintiff.

4. The order of condonation of delay is questioned in the present revision on the ground that the learned appellate court has inappropriately exercised the jurisdiction vested in it by condoning the delay. According to him, the circumstances of appearance of same Advocate in the appeal coupled with the ground of non-communication of the judgment impugned raised cannot be accepted as logical one. In addition, he would invite attention of this Court to certain factual matrix so as to submit that incorrect statements are made on record for supporting the prayer for condonation of delay.

5. Learned Counsel appearing on behalf of the respondent opposed the revision and prayed for its dismissal.

6. What could be appreciated is, the learned lower appellate court ordered condonation of delay in its discretionary jurisdiction and that too subject to condition of payment of costs of Rs.1000/-. Once such discretion is exercised based on the statutory provisions, I hardly see any perversity, illegality or material irregularity so as to cause interference while

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exercising revisional jurisdiction. However, this Court is not in agreement with the amount of costs saddled on the respondent.

7. In the facts and circumstances of the case, in my opinion, it will be appropriate to enhance the costs from Rs.1,000/- to Rs.5,000/- to be deposited by the respondent before the learned lower appellate court within a period of four weeks from today, to which the applicant will be entitled to,

8. With the above observations, the Civil Revision Application stands dismissed.

(N.W. SAMBRE, J.)

amj