

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.2705 OF 2015
IN
FIRST APPEAL (ST) NO.7567 OF 2014
WITH
CIVIL APPLICATION NO.2706 OF 2015
IN
FIRST APPEAL (ST) NO.7567 OF 2014**

Dr.Ashok Gajanna Pradhan ..Applicant/Appellant
V/s.

Smt.Shehalata Gajan Pradhan (Deceased)
Through Her L.rs. Shri Bal Ramkrishna
Deshpande ..Respondent

Mr.S.N. Chandrachood for the Applicant/Appellant.

Mr.Pradeep Patil a/w Mr.Sachin D. Bagal for the Respondent.

CORAM : M. S. SONAK, J.

DATE : 03 APRIL 2017

P.C.

1. Heard learned counsel for the parties.
2. This Civil Application seeks condonation of delay of 3 years and 348 days in instituting the appeal against judgment and decree dated 30 March 2010.
3. If the Civil Application is perused, it appears that the

same was prepared and notarized on 24 November 2011. In the Civil Application, the applicant admits that his advocate informed him and forwarded to him the certified copy of the impugned judgment and decree in a letter dated 09 November 2011 which was received by the applicant on 12 November 2011. Despite all this, the appeal has been instituted only in the year 2015 or thereabouts i.e. after delay of 3 years and 348 days.

3. The applicant, did not even bother to file any proper Civil Application. Rather, the applicant, only scored of 607 days delay as stated in the application which was notarized on 24 November 2011. There is virtually no explanation set out in the Civil Application. Although, this is not relevant, it is to be noted that the applicant, did not even take part in the proceeding before the learned Trial Judge. There was no written statement filed and ultimately, the decree was made ex-party. The copy of such judgment and decree long with roznamma was duly forwarded by the advocate to the applicant by 12 November 2011 as stated by the applicant itself in the Civil Application. There is absolutely no whisper explaining the delay between 12 November 2011 and the year 2015 when the appeal along with Civil Application actually came to be filed.

4. Mr.S.N. Chandrachood, learned counsel for the applicant submits that the applicant was an old person and it is the advocate, who was mainly negligent in the matter. Mr.Chandrachood also admits that it was the duty of the applicant to pursue the matter with the advocate. He submits that this is a fit case for some cost to be imposed and delay may be condoned. In the Civil Application, there is absolutely no cause shown for the inordinate delay. Further, it is matter of record that the advocate had informed the applicant about the passing of the decree on or about 12 November 2011. Thereafter, it also appears that the Civil Application was prepared and got notarized on 24-11-2011. However, there is no explanation as to why the appeal was not lodged until the year 2015. There is absolutely no explanation for this inordinate delay between 12 November 2011 and the year 2015. In such circumstances, such inordinate delay, cannot be condoned. The Civil Application is dismissed. There shall be however, no order as to costs.

5. As a consequence dismissal of the Civil Application the appeal does not survive and the same is also disposed of.

(M. S. SONAK, J.)