

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 205 OF 2016
IN
FAMILY COURT APPEAL (ST) NO.11386 OF 2016**

Rashmi Satyam Gade

..Applicant

Vs.

Shri Satyam Subhas Gade

..Respondent

**Mr. Pankaj S Pandey i/b Mr. Sachin R. Pawar for the Applicant
Mr. Vikas Shivarkar for the Respondent**

**CORAM :R. M. SAVANT, &
SMT. SADHANA S JADHAV JJ
DATE : 28th JUNE, 2017**

P.C.

1 The above Civil Application has been filed seeking condonation of delay of 361 days in filing the above Family Court Appeal. The reasons therefor are mentioned in paragraphs 3 and 5 of the above Civil Application. The sum and substance of the reasons mentioned is that the Advocate engaged by the Applicant did not inform the Applicant about the status of the matter as also the fact that the matter is being proceeded with exparte. The second reason mentioned is that the Applicant's mother is suffering from rheumatism and therefore the Applicant was busy looking after her mother and could not therefore take steps to file the Appeal within time.

2 The Learned Counsel appearing for the Respondent-husband Mr. Shivarkar questions the reasons for the delay. It was the submission of the

Learned Counsel that the Respondent is a qualified lady and that she has both financial wherewithal as well as the legal advise at her disposal to file an Appeal but she has not done so within limitation. The Learned Counsel further states that the Respondent-husband has also performed second marriage during the intervening period on 11-6-2015.

3 Having heard the learned Counsel for the parties and having considered the reasons mentioned in the above Civil Application, case for exercise of discretion in favour of the Applicant / Appellant has been made out. The reasons mentioned in the above Civil Application especially paragraphs 3 and 5 thereof can be said to be the plausible reasons for the delay which has occasioned in filing of the Appeal. It is well settled that in matters of condonation of delay a highly technical approach should be avoided and an approach which furthers the cause of substantial justice should be adopted. In the facts of the present case, we are of the view that one indulgence is required to be shown to the Applicant so as to give an opportunity to the Applicant to pursue the Family Court Appeal on merits. The Civil Application is accordingly allowed, resultantly the delay of 361 days in filing the above Family Court Appeal stands condoned. List the above Family Court Appeal for admission on 26-7-2017. The Civil Application is accordingly disposed of.

[SMT SADHANA JADHAV, J]

[R.M.SAVANT, J]