

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****CIVIL APPLICATION NO. 487 OF 2016****IN****FIRST APPEAL (STAMP) NO. 26842 OF 2015**

Vashdeo Rewachand Bhojwani

..Applicant

Vs

Anurang Nareshchandra Jain & Ors.

..Respondents

Mr. Jaydeep Deo i/b. Mr. Vikram R. Sutaria for Applicant.

Ms Sonal Dabholkar i/b. Mr. Suresh Sabrad for Respondent No. 1.

Ms Lopa Joshi i/b. Ms Vandana Jaisingh for Respondent No. 9.

**CORAM : SHANTANU S. KEMKAR &
M. S. SONAK, JJ.****DATE : JUNE 28, 2017****P.C. :**

Heard learned counsel for the parties on civil application no. 487 of 2016, which is an application seeking condonation of delay of 396 days in filing the appeal against the order of rejection of plaint passed on 30th May 2014.

2] According to the learned counsel for the appellant due to wrong advise against the said order, earlier after getting the certified copy of the order on 22nd August 2014, writ petition was filed on 26th August 2014. The said writ petition was dismissed on 29th July 2015 with liberty to the petitioner / appellant to file appeal. After getting certified

copy of the said order passed in the writ petition, the appeal was filed on 28th September 2015. In the process delay occurred which is of 396 days.

3] Having considered the submissions made by the learned counsel for the parties, we are satisfied that due to wrong advise, the appellant had approached wrong forum. In the circumstances, we condone the delay in filing the appeal, however, subject to payment of costs by the appellant to respondent nos. 1 and 9 to the extent of Rs.10,000/- (Rupees Ten Thousand) each. The cost amount be deposited in the court / paid to the respondent nos. 1 and 9 by the appellant within two weeks.

4] With the aforesaid direction, the civil application is allowed. Delay in filing the appeal is condoned.

5] List the appeal for admission on 13th July 2017.

(M. S. SONAK, J.)

(SHANTANU S. KEMKAR, J.)