

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.1525 OF 2017
IN
SECOND APPEAL (ST) NO.26888 OF 2017

Ramshankar Bhalchandra Wagal ...Applicant

Versus

Sadanand vitthal Umbre ...Respondent

Mr. Kuldeep patil for the Applicant.

Mr. Nandkumar G. Karekar for the Respondent.

CORAM : A. A. SAYED, J.

DATE : 13 NOVEMBER, 2017

P. C.:

1. This Civil Application is filed for condonation of delay of 113 days in filing the Second Appeal. The grounds stated in the Application is that the Applicant is a senior citizen aged about 67 years and he has several health problems. Moreover, he has no source of income and as his health condition is not good he could not approach his Advocate in Mumbai earlier for filing the Second Appeal. A Reply has been filed on behalf of the

Respondents, wherein it is pointed out that the Applicant despite being aware of the order of the lower Appellate Court has deliberately not preferred the Second Appeal within the time stipulated by law only with an intention to harass the Respondent who is senior citizen. It is further pointed out that even before the Trial Court the Respondent was harassed and the written statement was not filed in time and a no written statement order was passed, which was later set aside. It is pointed out that the Applicant has been negligent and no satisfactory explanation has been given for the delay.

2. Having regard to the facts and circumstances of the case, I am of the view that the Applicant has made out a case to condone the delay subject however, to costs. Hence, the following order:-

ORDER

The Application is allowed in terms of prayer Clause (a), subject to cost of Rs.2000/- to be paid by the Applicant to the Respondent within three weeks.

3. The Civil Application stands disposed of.

4. List the Second Appeal for admission on 5th December 2017, after removal of office objections, if any, by the Appellant.

[A. A. SAYED, J.]