

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY:**  
**NAGPUR BENCH : NAGPUR**  
**Civil Application No. 109 of 2016**  
**IN**  
**Second Appeal St. No.106 of 2016**  
**[Shankar Bhima Marape Vs. Gulab Motiram Sidam]**

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Office Notes, Office Memoranda of  
 Coram, appearances, Court's orders  
 or directions and Registrar's orders.

Court's or Judge's orders

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Mr. S. C. Bhalerao, Adv., for the applicant.  
 None for the non-applicant.

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**CORAM : A. S. CHANDURKAR, J.**

**DATE : 07<sup>th</sup> June, 2017**

Prayer is to condone delay in filing the appeal. In the application, it has been stated that the applicant was not aware of the date when the judgment was pronounced by the first appellate Court. He got knowledge about the said order only on 29<sup>th</sup> December, 2014 when he was so informed by his counsel. After applying for certified copy, he took steps for filing the appeal. It is further stated that applicant is a tribal and was under medical treatment for the period from February, 2014 to November, 2015. It is, therefore, prayed that the delay be condoned.

The application is opposed by the non-applicant by filing reply. It has been stated that the reasons furnished are not sufficient for condoning the delay. A dispute is sought to be raised to the Medical Certificate.

The applicant is the original plaintiff who has filed suit for specific performance. This suit was dismissed by the trial Court by holding it to be barred by limitation. The appeal preferred by the applicant was filed beyond limitation and that delay has not been condoned. It is against said order that the present appeal has been filed. Considering the fact that the applicant is a tribal and he has filed on record Medical certificate dated 17<sup>th</sup> December, 2015, indicating the fact that he was undergoing treatment, by accepting the reasons mentioned therein, I am inclined to condone the delay, subject to imposing costs on the applicant.

The delay in filing the Second Appeal stands condoned, subject to applicant paying costs of Rs.2,000-00 [rupees two thousand only] to the non-applicant within a period of three weeks from today.

Civil Application is allowed and disposed of.

**Judge**