

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

938 CIVIL APPLICATION NO.3784 OF 2018
IN SAST/7060/2018 WITH CA/3785/2018 IN
SAST/7060/2018

JITSING NIRMALSING TAK
VERSUS
FASIYA BEGUM AHEMAD

...

Advocate for Applicant : Mr. Shinde Dhananjay M.
Mr. Narwadkar Mrigesh D. For R/sole.

CORAM : P.R.BORA, J.

DATE : 31th July, 2018.

PER COURT :

1) The applicant has filed the present application seeking condonation of delay of about 1022 days which has occasioned in filing the second appeal. Two reasons are assigned by the applicant in justification of the delay caused, first that the applicant was facing financial problems and could not arrange for the funds and the other that, in the meanwhile period the applicant was suffering from some serious ailments and he was required to be hospitalized for some days and for rest of the period he was

advised not to travel and take full rest. It is contended that the blood used to ooze from the nose of the applicant and he was, therefore, strictly advised not to travel.

2) There cannot be a dispute that the words 'sufficient cause' are to be construed liberally and while dealing with the applications for condonation of delay, the courts shall adopt a justice-oriented approach. However, law is equally well-settled that if no sufficient cause is made out even a smaller delay also cannot be condoned. The courts cannot be oblivious to the rights accrued in favour of the other side while condoning the delay on some unjustifiable reasons. In the instant matter, though it is the case of the applicant that he was seriously ill, no such documents are placed on record. The material on record reveals that the applicant was hospitalized only for five days. It appears difficult to accept that that may be the reason for not filing the appeal by the present

applicant for the long period of about 32 months. Further it need not be stated that the financial crunch cannot be a ground to justify the delay. Since the applicant has failed to explain the inordinate delay committed by him in filing the appeal, I am not inclined to allow the present application. Hence, the following order, -

ORDER

. The application is rejected. Consequently, the second appeal on stamp number is also dismissed. Pending civil application if any, stands disposed of.

(P . R . BORA)
JUDGE

bdv/