

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

1032 CIVIL APPLICATION NO. 7896 OF 2018  
IN SAST/10158/2018 WITH CA/7897/2018 IN SAST/10158/2018

TUKARAM HARIBHAU NALGE AND ANOTHER  
VERSUS  
SAKHARAM HARIBHAU NALGE AN ANOTHER

...

Advocate for Applicants : Mr. Vivek V. Tarde  
Adv. for Respondents 1 & 2 : Mr. Sanket N. Suryawanshi

...

**CORAM : V.L. ACHLIYA,J.**

**DATED : 24th August , 2018.**

**Order :-**

1. The applicant/appellant has moved this application to condone delay of 5 days caused in filing the appeal, for the reasons set out in detail in the application.

2. Heard learned counsel for the applicant and respondent Nos. 1 and 2.

3. In a nutshell, it is the contention of the learned counsel for the applicant that the delay caused in filing the appeal was not intentional and deliberate but caused due to reason that the applicant being poor and illiterate person, he could take steps immediately to file appeal. He was wholly dependent upon the advice of his Advocate in the matter. The learned counsel for applicant submits that the appellant has a good case to succeed in the appeal and in case delay is not condoned there is every likelihood that a meritorious case may be dismissed for technical reasons.

4. On the other hand, learned counsel for respondents opposed the application with contention that no sufficient cause has been assigned to condone the delay and the reasons assigned are false, concocted and by way of an after-thought.

5. Considering the submissions advanced, in the light of overall facts of the case, I am of the view that delay deserves to be condoned. In case, delay is condoned no serious prejudice would be caused to the respondents, as ultimately the appeal will be decided on merit. However, if delay is not condoned there is every possibility that serious prejudice may be caused to the applicant and meritorious matter may be dismissed for technical reasons.

6. I am, therefore, inclined to allow the application. The application is allowed. Delay is condoned. Appeal be registered. Accordingly the application stands disposed of.

**[ V.L. ACHLIYA ]**  
**JUDGE**

grt.