

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

CIVIL APPLICATION NO. 3890 OF 2017
IN SAST/18451/2016

MANGESH SATISH UPADE AND ANR
VERSUS
RENUKADAS DAMODHAR DAFANE

...
Advocate for Applicants : Mr. Vivek Vasantrya Bhavthankar.
Advocate for Respondents : Mr. Kailas B. Jadhav.
...

CORAM : V.L. ACHLIYA, J.

DATED : 29th AUGUST, 2018

ORDER :-

The applicants/appellants have preferred this application to condone 55 days delay in filing the second appeal against the impugned judgment and award, for the reasons set out in detail in the application.

2. Heard the learned counsel for applicants and respondent.
3. The learned counsel for the applicants submit that delay caused in filing appeal was not intentional and deliberate but caused due to non communication of the Judgment and Order passed by the counsel representing appellant before the First Appellate Court. On 09-05-2016, the General Power of Attorney holder of applicants-appellants, when visited Advocate, he was informed that the appeal filed by the appellants was dismissed on 13-01-2016 and advised to file Second Appeal. After obtaining certified copies and making other arrangement, the appellants have filed present appeal. In the process, the delay of 55 days has been caused in filing appeal.

4. On the other hand, learned counsel for respondent 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. Having regard to the submissions advanced, in the light of unchallenged pleadings and more particularly reasons assigned to condone the delay, I am of the view the delay deserves to be condoned. In case delay is condoned, no serious prejudice would cause to the respondent. On the contrary, if delay is not condoned, the possibility cannot be ruled out that meritorious matter may be rejected on technical ground. I am, therefore, inclined to allow the application subject to cost of Rs.5,000/- (Rs. Five Thousands Only) to be deposited within four weeks from the date of this order. On deposit of cost, appeal be registered and placed for admission.

6. The civil application stands disposed of in above terms.

(V.L. ACHLIYA, J.)

MTK.