

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

**CIVIL APPLICATION NO. 12850 OF 2016
IN
FAMILY COURT APPEAL ST. NO. 26172 OF 2016**

Vijaykumar Sharanappa Kasture .. Applicant

V E R S U S

Kavita Vijaykumar Kasture .. Respondent

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Mr. R. B. Narwade Patil, Advocate for applicant.

Mr. S. S. Gangakhedkar, Advocate for respondent.

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**CORAM : SUNIL P. DESHMUKH &
P. R. BORA, JJ**

DATE : 29th January, 2018

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ORAL ORDER :

1. Heard learned counsel for the parties.
2. Petitioner is before this court impugning judgment and decree dated 14-07-2015 limiting the same to the extent of grant of permanent alimony claiming the same to be exorbitant. However, while challenge to such decree had been

posed, approach to this court had been made after expiry of period of limitation. Appeal is belated by 312 days.

3. The application refers to that applicant's mother is old and, suffering and had been bed ridden and advised rest and, therefore, he had to look-after her and as such, had lost track of the matter pending before family court and in the process communication gap between him and lawyer had occurred.

4. Learned counsel for applicant submits that delay has also been for the reason that applicant had been in disturbed condition and had suffered losses in the deals and had to spend quite a lot of time for arranging finance.

5. Learned counsel Mr. Gangakhedkar appearing for respondent, however, submits that the reasons put forth in the application, having regard to factual position that there have been quite a few dealings by ailing mother, may not be a sufficient cause for condonation of delay. He, therefore, purports to submit that the application is devoid of any justifiable reason for condonation of delay.

6. Although learned counsel for respondent submits

so, it appears that mother of the applicant has been old and ailing and a certificate has been issued by a medical practitioner. It appears from the certificate that she has been advised to bed rest. May be that she has entered into certain transactions during this period but, the two instances which learned counsel for respondent has attributed to indicate that there had been certain dealings, may not totally render the medical certificate issued by practicing doctor unreliable.

7. In any case, learned counsel for respondent, as referred to above, is not in a position to dispute that the mother of the applicant is old and ailing and show that the averments in the civil application are not correct. In the circumstances, the reasons should receive their due.

8. We, therefore, condone the delay and allow the application, subject to condition that the applicant deposits an amount of Rs.3,90,000/- in this court within a period of one month from today. Computation and/or appropriate adjustment of the amounts thus far paid under the orders would be done at the hearing of the appeal.

9. Application, accordingly, is disposed of.

[P. R. BORA]
JUDGE

[SUNIL P. DESHMUKH]
JUDGE