

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

**925 CIVIL APPLICATION NO. 11525 OF 2017
IN RC/1159/2017**

**MADHAV JANKIRAM THORAT
VERSUS
RADHABAI PRAKASH NARWADE AND OTHERS**

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Advocate for Applicant : Mr. Govind G. Suryawanshi
Advocate for Respondent Nos. 1 and 3 : Mr. Avinash D. Hande

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CORAM : V.L. ACHLIYA, J.

DATED : 17th OCTOBER, 2018

PER COURT:-

1. The applicant-appellant has moved this application seeking condonation of 190 days delay 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 3.
3. In brief, it is the contention of the learned counsel for the applicant-appellant that the delay caused in filing the appeal was not deliberate but due to the reason that the advocate representing the applicant before the first appellate court has not informed him about the decision in appeal. It is submitted that the applicant is uneducated and financially poor person. Only

after receiving the knowledge that judgment and decree has been passed against him and received the legal advice that he will have to file appeal before this Court, the applicant has collected certified copies of judgment and decree and filed the present appeal. It is submitted that in the process, the delay of 190 days has been caused. He submits that the applicant-appellant has a good case of to succeed in the appeal and in case delay is not condoned there is every likelihood that a meritorious case of the appellant may be dismissed for technical reason. On the other hand, in case, delay is condoned no serious prejudice would caused to the respondents, as ultimately the appeal will be decided on its own merit.

4. Learned counsel for respondent nos. 1 and 3 opposed the application with contention that no sufficient cause has been assigned to condone the delay. It is submitted that the reasons assigned for seeking condonation of delay are false, concocted and by way of an after thought. He therefore urged to reject the application.

5. Considering the submissions advanced in the light of unchallenged pleading in the application, I am of the view that the case is made out to condone the delay. The reasons assigned cannot be treated as false and concocted. The applicant-appellant has supported the reason assigned by producing a copy of the

B.P.L. certificate showing that the applicant-appellant is poor and financially weak person. As the applicant was wholly dependent upon the advice of his Advocate, he could not file appeal within time. I am, therefore, inclined to allow the application. The application is allowed in terms of prayer clause 'B'. Delay is condoned. Appeal be registered subject to removal of office objections.

6. Accordingly the application stands disposed of in above terms.

(V.L. ACHLIYA)
JUDGE

SPR