

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 3053 OF 2018
WITH
CIVIL APPLICATION NO. 3054 OF 2018
IN
FIRST APPEAL (ST.) NO. 24326 OF 2018**

Centrum Capital Ltd.	.. Applicant/Appellant
Vs.	
Shri Madan Jhamandas Babani	.. Respondent

Mr.Surel S. Shah, Advocate I/b Legal India Law for applicant/appellant.

Ms.Brenda Barnes, Advocate I/b Udaya Sarkar Samudrala, Advocate for respondent.

**CORAM : A.S. CHANDURKAR, J.
DATE : 19TH DECEMBER 2018**

P.C.

CIVIL APPLICATION NO. 3053 OF 2018

1 The prayer is to condone delay in filing the first appeal. The reasons for the delay are mentioned in paragraph 3 of the application. Subsequently, an additional affidavit has been placed on record giving further reasons along with a letter dated 30th July 2018 issued by the erstwhile Advocate to the appellant. As per the said letter, the said Advocate has returned the relevant papers as he was unable to file the appeal as instructed. It is further submitted that the decree in question stands duly executed and hence an adjudication on merits is warranted.

2 The application is apposed by the learned counsel for the

respondents on the ground that even in the additional affidavit, the statements as made are insufficient. It is submitted that the appellant did not follow-up the matter with the erstwhile advocate and hence the delay does not deserve to be condoned. On perusing the additional affidavit as well as the accompanying letter, it is found that there was a justification for not filing the appeal within limitation. The appellant having suffered a decree, there was not reasons to deliberately delay filing of the appeal. Moreover, the plaintiff has executed the said decree and hence in any compensated for the present. Hence, I am accepting the reasons as mentioned in the additional affidavit, the delay in filing the first appeal stands condoned. The civil application is disposed of.

(A.S. CHANDURKAR, J.)