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

**CIVIL APPLICATION NO.1820 OF 2017
IN
SECOND APPEAL (ST) NO.26572 OF 2017**

A. Hamid Abdulla Kazi and anr ... Applicants.
V/s.
Jakir Chougule and ors ... Respondents

Mr. Sandeep Mishra, for applicants
Mr. S.A. Kumbhkoni, for respondent No.1.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J

DATE : 19th JUNE, 2018.

P.C. :

1] This application is for condonation of delay in preferring this Second Appeal. The delay is of 165 days. The ground taken is that the applicant was not served with Summons of the Suit or the notice of Appeal and for the first time, he became aware when the Notice of Darkhast was served on him.

2] The submission of learned counsel for respondent-plaintiff is that the same ground is taken in the Appeal Memo also, for setting aside the judgment and decree of Appellate Court. Hence if the delay is condoned, it would be held in this appeal also that the said ground is accepted.

3] In my considered opinion, in order to enter the merits of the appeal, first the delay has to be condoned. Keeping open that point as and when it would be raised, the delay is condoned. Application is allowed. However, it is subject to costs of Rs.10,000/- to be paid by the applicant to respondents within two weeks from today.

4] On failure to pay the costs within the stipulated period, this application will automatically stand dismissed in default.

5] The ad-interim relief granted earlier to continue till next date.

6] Stand over to 18.07.2018.

[DR.SHALINI PHANSALKAR-JOSHI, J.]