

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

**CIVIL APPLICATION NO. 567 OF 2016
IN
SECOND APPEAL ST. NO. 30236 OF 2015**

Smt. Indu Bhulai Sharma ...Applicant

IN THE MATTER BETWEEN
Smt.Indu Bhulai Sharma ...Appellant

Versus

Shri Shitalaprasad Sarju Sing ...Respondent

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Mr. S.R. Gupta for the Applicant.
Mr. K.K. Malpathak for the Respondent.
Mr. Harshad Inamdar I/b. Mr.D.S.Malgi for the Respondent.

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**CORAM: MRS.MRIDULA BHATKAR, J.
DATED: APRIL 16, 2018**

P.C. :

1. This Civil Application is moved for condonation of delay in filing the Second Appeal.
2. Pursuant to the order dated 13th April, 2018 passed by this Court, Advocate Mr. S.R.Gupta is present.
3. The learned counsel for the applicant, on instructions from the applicant, who is present in the Court, submits that she wants

to withdraw the allegations made against the Counsel. However, the applicant maintains that there was a communication gap and she also took time to engage the other counsel. He further submits that there is merit in the Appeal.

4. The learned counsel for the respondent submits that if the allegations made against the counsel are withdrawn, then no sufficient cause is made out to condone the delay.

5. I have read the Civil Application. The allegations made against the Counsel appearing for the applicant in the Appellate Court are that he did not communicate the decision of dismissal of the Appeal. However, Advocate Mr. D.S. Modgi appearing for the applicant in the Appellate Court has filed a detailed affidavit. In the said affidavit, he has refused all the allegations made by the applicant and has specifically stated that when the Appeal was dismissed on 21st August, 2013, he has communicated that decision to the applicant and she has taken her time. This is word against word. However, what remains is that the applicant did not file Second Appeal and that may be due to communication gap between her and the Counsel appearing in the Appellate Court or

she has taken time to engage the other counsel to file Second Appeal.

6. Be that as it may, the matter is not to be stretched. I allow this Civil Application. The delay of 1 year and 314 days is hereby condoned.

7. Second Appeal be numbered. Place the Appeal for admission on 11th June, 2018.

(MRIDULA BHATKAR, J.)