

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:
NAGPUR BENCH : NAGPUR
Civil Application [CAS] No.216 of 2017
IN
Second Appeal St. No. 21793 of 2016
[ICICI Bank Ltd., Akola Vs. Pundlikrao Hiranman Ingole]

Office Notes, Office Memoranda of
 Coram, appearances, Court's orders
 or directions and Registrar's orders.

Court's or Judge's orders

Mr. M. R. Joharapurkar, adv., for the applicant.
 Mr. Rishikesh Mardikar, adv., for respondent.

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CORAM : A. S. CHANDURKAR, J.

DATE : 23rd February, 2018

By this application, it is prayed that the delay in filing the Second Appeal be condoned. In the application it is stated that the appellate Court decided the appeal on 24th February, 2015. The certified copies were applied on 3rd March, 2015 and were received on 7th April, 2015. As the certified copy of the judgment of the trial Court along with the Memorandum of Appeal were not applied for, steps were taken to have those certified copies. It is further stated that the Asstt. Manager [Legal] had gone on maternity leave on 20th April, 2015 for a period of almost eight months. After resuming duties, necessary further enquiries were made, after which another application was made on 23rd March, 2016 for getting the certified copies. On receiving the same on 17th September, 2016, the appeal came to be filed.

The application is supported by affidavit of the concerned Asstt. Manager [Legal].

Reply has been filed opposing the aforesaid application. It is stated that when the proceedings were pending before the appellate Court, another Legal Officer was looking after the same and therefore, it was possible for that officer to have taken further steps. The explanation furnished is insufficient for condoning the delay. Support is also sought to be taken by placing reliance on the judgment in **Victor Albuquerque Vs. Saraswat Co-operative Bank Ltd. & others** [1998 (2) Mh.L.J. 437].

Perused the application as well as reply and heard the learned counsel.

Record indicates that after the judgment of the appellate Court, the certified copy was applied on 3rd March, 2015 and was received on 7th April, 2015. The certified copies of the judgment and decree of the trial Court and of the Memorandum of Appeal were not available. During that period, the concerned Asstt. Manager [Legal] had gone on maternity leave. Though it is true that in her absence, the matter could have been handled by some other officer, the fact remains that certified copy of the judgment of the appellate Court was applied within time with the intention of challenging that

judgment. The other certified copies appear to have been applied for belatedly.

Considering the reasons mentioned in the application and by imposing costs on the applicant, the delay is liable to be condoned. Hence, subject to applicant paying costs of Rs.2500/- [rupees two thousand five hundred only] to the non-applicant within a period of four weeks from today, the delay in filing the Second Appeal stands condoned.

Civil Application is allowed and disposed of.

Judge

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