

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

926 CIVIL APPLICATION NO. 12506 OF 2018  
IN  
SAST/5281/2018

BAPURAO VIKRAM JOGDAND  
VERSUS  
PURBHAJI NAMAJI JOGDAND LRS VITHAL AND ORS.

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Mr. A.N.Patale, Advocate for Applicant.  
Mr. S.N.Janakwade, Advocate for R – 2 to 7.

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**CORAM : V.L.ACHLIYA, J.**  
**DATE : 17/07/2019**

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**ORAL ORDER :**

1. The applicant has moved this application for condonation of 83 days delay in filing appeal for the reasons set out in detail in the application.
2. Heard learned counsel for applicant and respondent Nos. 2 to 7.
3. In brief, it is the contention of learned counsel for applicant that the delay caused in filing appeal was due to the reason that the Advocate conducting the proceeding on behalf of applicant has not informed to applicant the Judgment and order passed in the matter immediately after the appeal was decided. In the month of September, 2017 when the applicant approached the Advocate and enquired about the status of appeal, at that time the Advocate told him about dismissal of appeal. Thereafter the

applicant moved an application for certified copy and after making arrangement to present appeal, the appeal has been filed. In this back-ground, learned counsel submits that the delay in filing appeal was not intentional and deliberate but due to non communication of the Judgment and order to applicant by his Advocate representing before first appellate Court.

4. On the other hand, learned counsel for respondent Nos. 2 to 7 opposed the application with the contention that the reasons assigned are false and concocted. It is submitted that the cause assigned is not sufficient to condone the delay of 83 days caused in filing appeal.

5. On due consideration of submissions advanced in the light of unchallenged and uncontroverted pleadings made in the application, I am of the view the delay deserves to be condoned. In case delay is condoned no serious prejudice would cause to the respondents as ultimately the matter will be decided on its own merit. On the contrary, if delay is not condoned, there is every likelihood that meritorious matter may be rejected for the technical reasons. I am, therefore, inclined to allow the application subject to cost of Rs. 2,000/- [Rupees Two Thousand] to be paid by the applicant to the respondents. The cost be paid within three weeks from the date of this order.

On deposit of cost, respondents will be at liberty to withdraw the same. On deposit of cost, appeal be registered. Failure to deposit cost within stipulated period, the order of condonation of delay stands recalled.

**[V.L.ACHLIYA]**  
**JUDGE**

KNP.