

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

943 CIVIL APPLICATION NO.11485 OF 2019
IN SAST/9596/2019

MANOHAR SURYABHAN DHAVARE DECEASED THROUGH
LRS KANTABAI AND OTHERS
VERSUS
KAZI MURTUJA KAZI AKBAR

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Mr.H.V. Tungar, Advocate for applicants.

Mr.S.P. Katneshwarkar, Advocate for the respondent.

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CORAM: V.L. ACHLIYA,J.

DATE : 06.12.2019

ORAL ORDER:

The applicants/appellants has moved this application for condonation of 46 days delay in filing appeal for the reasons set out in detail in the application.

2. Heard learned counsel for the applicants/appellants and the respondent.

3. In brief, it is the contention of learned counsel for the applicants that the delay caused in filing appeal cannot be termed as inordinate and intentional. It is submitted that the delay occurred due to reason that since last 2-3 years there is drought situation in entire Marathwada region. Due to financial crisis, the

applicants could not arrange for money to prefer appeal. After making arrangement to pay the court fees and meet the expenses required for filing appeal, the applicants have preferred appeal. It is submitted that the applicants have good case on merits to succeed in the appeal. In case the delay is not condoned, there is every likelihood that the meritorious case of applicants may be rejected for technical reasons.

4. On the other hand learned counsel for the respondent opposed the application with contention that the cause assigned for condoning the delay cannot be termed as sufficient to condone the delay. It is submitted that the reasons assigned are false and concocted.

5. On due consideration of the submissions advanced in the light of reasons assigned for condonation of delay and the delay being only 46 days, I am of the view that the case is made out to condone the delay. Keeping in view the broad principles laid down by the Apex Court in the case ***Isha Bhattacharjee V/s Managing Committee of Raghunathpur Nafar Academy and others***

reported in *(2013) 12 SCC 649*, I am of the view that the delay deserves to be condoned. Accordingly, the application is allowed in terms of prayer clause "B". The delay condoned. Appeal be registered subject to removal of office objection.

[V.L. ACHLIYA]
JUDGE

SGA