

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

**CIVIL APPLICATION NO.8119 OF 2019
IN SAST/13358/2019**

**SONALI KAILAS KALE
VERSUS
KAILAS SHANKAR KALE**

Mr. Anup D. Mane h/f. Mr. Amol Sawant, Advocate for the applicant.

Mr. U.S. Patil, Advocate for the respondent.

**CORAM : S.M.GAVHANE,J.
DATED : 12.12.2019**

P.C. :-

1. The applicant/original defendant against whom decree for restitution of conjugal rights has been passed on 30.04.2014 in HMP No. 133 of 2012 filed by respondent/original applicant-husband, by the Joint CJSD, Dhule and whose application bearing Misc.CA No.150 of 2014 condoning delay caused in filing appeal against decree for restitution of conjugal rights was rejected, by the District Judge, Dhule on 30.10.2017, has filed this application to condone the delay of 433 days caused in preferring the second appeal against order rejecting application to condone the delay, passed by the District Judge, Dhule.

2. Mr. Anup D. Mane h/f. Mr. Amol Sawant, learned counsel appearing for the applicant submitted that

admittedly the applicant filed writ petition No. 10269 of 2018 challenging the aforementioned order passed by the District Court and said petition was withdrawn on 02.04.2019 and while passing the order in writ petition it was observed that if the petitioner files Second Appeal within three weeks from the date of passing the order in writ petition, the period spent by the petitioner in prosecuting writ petition from 23.07.2018 would be a ground to consider for condonation of delay. It is submitted that within three weeks from the date of passing the order in writ petition, present application has been filed with second appeal. It is submitted that the applicant could not file appeal within time for the reasons mentioned in the application and therefore the delay be condoned.

3. Learned counsel for the respondent opposed to grant the application.

4. Considering the submissions made by the learned counsel for the applicant, the grounds mentioned in the application and the order passed in writ petition, though learned counsel for the respondent opposed to grant the application, this Court finds that the applicant has shown sufficient cause to condone the delay. Therefore, the application is allowed. The delay caused in

preferring the second appeal is condoned.

5. The Second Appeal be registered and it be placed before the Court for admission on 27.01.2020.

[S.M.GAVHANE, J.]