

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

935 CIVIL APPLICATION NO.1939 OF 2019
IN
FAST/19309/2018

SURAJ MADHUKAR JADHAV
VERSUS
PRAVIN PRATAPRAO SHINDE AND ORS

...
Mr.D.S.Mali, Advocate for applicant.
Mr.A.S.Usmanpurkar, Advocate for R – 4.
Mr.A.G.Kanade, Advocate for R – 6.

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CORAM : V.L. ACHLIYA, J.
DATE : 20/12/2019

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ORAL ORDER:

1. The applicant has moved this application seeking condonation of 367 days delay in filing Appeal for the reasons set out in detail in the application.
2. Heard learned counsel for applicant and respondent Nos. 4 and 6. The respondents other than respondent Nos. 4 and 6 though served, absent.
3. In brief, it is the contention of learned counsel for applicant that delay caused in filing Appeal was mainly for the reason that applicant could not arrange

necessary funds to approach Advocate and to file Appeal. Due to accidental injuries, the applicant has suffered permanent disability and lost vision of one eye. After arranging funds from friends and well-wishers, the applicant approached Advocate and filed present Appeal. In the process, the delay of 367 days has been caused in filing appeal. It is submitted that if delay is not condoned, serious prejudice would cause to the applicant.

4. On the other hand, learned counsel for respondent Nos. 4 and 6 opposed application with contention that reasons can not be treated as sufficient to condone delay of 367 days. It is submitted that reasons assigned are false and concocted. The applicant is claimed himself to be prosecuting education. The motorcycle belongs to his father. In that view, the reasons assigned are not genuine. It is further submitted that in case delay is condoned, the respondents shall not be saddled with liability to pay interest for the delay caused in filing Appeal.

5. On due consideration of submissions advanced in the light of unchallenged, uncontroverted pleadings in the application, I am of the view the delay deserves to be condoned. The application filed by

applicant is rejected by the Tribunal. The remedy by way of First Appeal is the only remedy for the applicant to assail reasons and findings recorded by Tribunal. If delay is not condoned, there is every likelihood that meritorious matter may be rejected for technical reasons. If delay is condoned, no prejudice would cause to respondents as the case will be decided on own merit. So far as the contention of learned counsel for respondent Nos. 4 and 6 that for delay caused in filing Appeal, the respondents shall not be saddled with liability to pay interest in the event the Appeal is allowed. I am of the view same deserves due consideration. Accordingly, the application is allowed in terms of prayer clause 'B' with condition that in the event appeal is allowed, applicant shall not be entitled for the interest of the period the delay caused in filing Appeal.

6. Civil Application disposed of in above terms.

[V. L. ACHLIYA]
JUDGE

KNP