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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

917 CIVIL APPLICATION NO.9665 OF 2007
IN RC/2138/2009 IN FAST 20204/2007

RAMESH SAKHARAM PATIL
VERSUS
DEVIDAS RAMA NANWARE AND OTHERS

...

Advocate for Applicant : Shri D. M. Pingale

None present for respondent no.2.

Application dismissed as against respondent nos.1 & 3.

CORAM: V.L. ACHLIYA, J.

DATE: 16.04.2019

PER COURT :

1] The applicant has filed this application for condonation of delay of 265 days in filing appeal for the reasons set out in detail in the application.

2] Heard learned counsel for the applicant. The application is already dismissed as against respondent nos.1 and 3 in default of the applicant to take steps in the matter to serve them. The respondent no.2 alone is served in the matter, but the learned counsel representing the respondent no.2 is absent.

3] In brief, it is the contention of learned counsel for the applicant that the delay caused in filing the appeal has been sufficiently explained. The delay was

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not deliberate, but occurred due to want of proper instructions from the Advocate and to arrange the funds for presenting the appeal. It is submitted that the applicant has filed the claim seeking compensation of Rs.3,00,000/-. The applicant was required to take earned leave for 18 months. He incurred expenditure to the tune of Rs.2,65,000/- on account of medical expenses. Although the evidence was adduced to claim the compensation of Rs.3,00,000/-, the Tribunal has awarded Rs.80,000/- and the liability has been apportioned between the respondent nos.1 and 2.

4] Considering the submissions advanced in the light of overall facts of the case and more particularly the fact that the application has been dismissed as against respondent nos.1 and 3 way back in the year 2013 in default of taking steps to serve the respondent nos.1 and 3, the request of the applicant for condonation of delay cannot be entertained.

5] Accordingly, the application is rejected. Rule is discharged.

(V.L. ACHLIYA, J.)