

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

931 CIVIL APPLICATION NO.9935 OF 2019
IN
FIRST APPEAL STAMP NO.24991 OF 2019

CHOLAMANDALAM GENERAL INSURANCE CO. LTD.,
THROUGH ITS DIVISIONAL MANAGER, AURANGABAD
VERSUS
SHAHIN KHALID SHAIKH & OTHERS

...
Advocate for Applicant : Ms. Sayli Tekale
h/f. Mr.S.G.Chapalgaonkar
Advocate for Respondents : Mr.V.S.Bedre
...

CORAM : V.L.ACHLIYA,J.
DATE : 10.12.2019

PER COURT:

1] This application is filed seeking condonation of 76 days delay in filing First Appeal for the reasons set out in detail in the application.

2] Advocate Mr.V.S.Bedre submits that he has received instructions to appear on behalf of respondents. He undertakes to file *Vakalatnama* within two weeks.

3] Heard learned counsel for the applicant-appellant and the respondents.

4] By consent, Application seeking condonation of delay is taken up for hearing.

5] In brief, it is the contention of the learned counsel for the applicant-appellant that the delay caused in filing Appeal cannot be termed as intentional and deliberate. It is submitted that delay was primarily caused due to time spent in processing the matter for filing Appeal. After receipt of the certified copy and opinion of the Advocate, the case was processed for filing Appeal and the papers were sent to the Divisional Office for taking decision in the matter. In that process, considerable time was spent and delay of 76 days has been caused in filing Appeal.

6] On the other hand, learned counsel for the respondents opposed the application with contention that the reasons assigned cannot be termed as sufficient to condone the delay. It is submitted that the reasons assigned for condonation of delay are false and concocted.

7] On due consideration of the submissions advanced in the light of overall facts of the case, the reasons assigned and

the consequences to follow if delay is not condoned, delay deserves to be condoned. If the delay is condoned, no serious prejudice would be caused to the respondents. On the other hand, if delay is not condoned, there is every likelihood that a meritorious matter may be rejected for technical reasons. Keeping in mind the broad principles laid down by the Apex Court in the case of ***Esha Bhattarjee v. Managing Committee of Raghunathpur Nafar Academy & others*** reported in (2013) 12 SCC 649 in the matter of condonation of delay, I am of the view that, delay caused in filing appeal deserves to be condoned. Accordingly, application is allowed in terms of prayer clause-B. Delay is condoned. Appeal be registered.

8] Civil Application is disposed of in above terms.

9] List the Appeal on 28th January, 2020.

[V.L.ACHLIYA]
JUDGE