

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

**924 CIVIL APPLICATION NO.5620 OF 2016
IN SAST/26189/2015**

**SHIRISH RAMCHANDRA SAPKALE
VERSUS
PRATIBHA SHIRISH SAPKALE**

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**Mr.A.S. Sawant, Advocate for the applicant.
Mr.M.G. Patil, Advocate for respondent.**

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**CORAM: V.L. ACHLIYA,J.
DATE : 11.10.2019**

ORAL ORDER:

This application is filed seeking condonation of 83 days delay in filing the appeal for the reasons set out in detail in the application.

2. Heard learned counsel for the applicant and learned counsel for the respondent.

3. In brief it is the contention of learned counsel for the applicant that the delay caused in filing appeal was not deliberate and intentional. It is submitted that the appeal was decided by the first Appellate Court on 10th March, 2015. The

Advocate for the applicant applied for certified copies on 11th March, 2015 and the same were received on 17th March, 2015. Since the applicant is in service and resided at other place, the Advocate could not communicate the applicant about the said decision. In 2nd week of April, 2015, the applicant approached to the Advocate to inquire about the appeal at that time the applicant came to know about the decision in appeal. Immediately thereafter the present appeal was filed. In the process there is delay of 83 days occurred in filing the appeal. It is submitted that, in case the delay is not condoned, the serious prejudice would cause to the applicant.

4. On the other hand, learned counsel for the respondent opposed the application with contention that the cause assigned for condonation of delay cannot be treated as a sufficient cause within the meaning of Section 5 of the Limitation Act. It is submitted that the reasons assigned are false and concocted and made with intention to any how get the delay condoned in filing appeal.

5. On due consideration of submissions

advanced in the light of unchallenged and uncontroverted pleadings made in the application assigning reasons for condonation of delay, I am of the view that the delay deserves to be condoned. It is well settled position in law that while dealing with the applications seeking condonation of delay, the Court has to adopt liberal and pragmatic approach in the case. In the case in hand, if the delay is not condoned, the meritorious matter may be rejected for technical reasons. On the other hand, if the delay is condoned, no serious prejudice would cause to the respondent as the appeal will be decided on merits. Hence, I am inclined to allow the application and condone the delay. Accordingly, the application is allowed in terms of prayer clause "A". Delay condoned. Appeal be registered subject to removal of office objections and place for admission on 18th November, 2019.

6. Stand over to 18th November, 2018.

[V.L. ACHLIYA]
JUDGE

SGA