

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

907 CIVIL APPLICATION NO. 10835 OF 2013
IN
SAST/29547/2012

ANTURAM TUKARAM NALAPURE DIED TH LRS
DAYANAND ANTRAM NALAPURA
VERSUS
RAMKISAN TUKARAM NALAPURE & ORS.

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Mr. Milind Patil, Advocate for Applicant.
Mr. Amay Sabnis h/f Mr. V.D.Gunale,
Advocate for R – 1.

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CORAM : V.L.ACHLIYA, J.

DATE : 10/10/2019

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ORAL ORDER :

1. This application is filed for condonation of 550 days delay in filing Second Appeal for the reasons set out in detail in the application.
2. Heard learned counsel for applicant and respondent No. 1 i.e. contesting respondent.
3. In brief, it is the contention of learned counsel for applicant that delay caused in filing appeal was not deliberate and intentional. It is submitted that the Judgment and Order came to be passed in R.C.A. 30/2011 on 04/02/2011. From the month of February, 2011 till 2nd week of 2012 the applicant was working out side Maharashtra State. He was doing fabrication work as per contract at Kadi, District Mahasana [Gujrat]. After completing the contractual work, the applicant came to

Latur. During that period he lost contact with his Advocate. Only after receipt of notice of Second Appeal No. 455 of 2011 in 2nd week of February, 2012, the applicant came to know about passing of Judgment and Decree in the month of February, 2011. After seeking legal advise, the applicant has presented this appeal. In the process there was delay of 550 days delay in filing of appeal.

4. In the back-ground of overall facts and circumstances of the case, learned counsel submits that the applicant has good case to succeed on merit. No serious prejudice would be caused if delay is condoned.

5. On the other hand, learned counsel for respondent No. 1 i.e. contesting respondent opposed the application for condonation of delay with contention that the cause assigned is not sufficient to condone the delay. It is submitted that the reasons assigned are false and concocted.

6. On due consideration of submissions advanced in the light of unchallenged, uncontroverted pleadings made in the application, I am of the view the delay deserves to be condoned. No serious prejudice would be caused if delay is condoned. It is well settled position in law while dealing with the application seeking condonation of delay, the Court must adopt liberal and pragmatic approach.

7. Thus, on due consideration of cause assigned for condonation of delay in filing appeal, I am inclined to allow

the application subject to cost of Rs. 5,500/- payable by the applicant to respondent No. 1 within four weeks. On deposit of cost, appeal be registered and place for admission along with Second Appeal No. 455 of 2011. Office objection, if any, be removed within four weeks.

8. S.O. 11/11/2019.

[V.L.ACHLIYA]
JUDGE

KNP.