

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

**918 CIVIL APPLICATION NO.409 OF 2014
IN SAST/30050/2013**

**SUBHASH KONDIBA MORE
VERSUS
DHDABHAU CHAMPAJI ROKADE**

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Mr.R.K. Temkar, Advocate for the applicant.

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**CORAM: V.L. ACHLIYA, J.
DATE : 26.07.2019**

ORAL ORDER:

The appellant/applicant moved this application for condonation of 271 days delay in filing appeal.

2. Heard learned counsel for appellant/applicant. The respondents though served and recorded appearance through Advocate absent.

3. In brief, it is the contention of learned counsel for the applicant that the delay caused in filing appeal was not due to deliberate and intentional act on the part of applicant. It is submitted that after securing the certified copy of the order, the applicant could not file appeal within time

as he was suffering from Lumber P.I.D. Due to disability, the applicant could not approach the Advocate and file appeal within time. In support of the application, the applicant has annexed the copy of medical certificate.

4. Considering the cause assigned for condonation of delay, which remains unchallenged and uncontroverted, I am of the view that the delay deserves to be condoned. In case, the delay is condoned, no serious prejudice would cause to the respondents. If the delay is not condoned, there is every likelihood that the meritorious matter may be rejected for technical reason. I am therefore inclined to allow the application. Accordingly the application is allowed in terms of prayer clause "B", subject to cost of Rs.3,000/- deposited by the applicant within three weeks from the date of this order. On deposit of cost, the appeal be registered.

5. Failure to deposit the cost within three weeks, the order of condonation of delay stands recalled and the application for condonation of delay with appeal stand

dismissed.

6. The application is disposed of in
above terms.

[V.L. ACHLIYA]
JUDGE

SGA