

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

931 CIVIL APPLICATION NO. 13024 OF 2019
IN
SECOND APPEAL ST. NO.31181 OF 2019
WITH
CIVIL APPLICATION NO.6342 OF 2019 IN SA
NO.281/2019

GANGADHAR S/O UMAJI FEGADE
VERSUS
AMRUTA S/O RAMRAO CHAVHAN

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Mr.S.B. Ghatol Patil, Advocate for applicant
Mr.Y.K. Delmade, Advocate for respondent

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CORAM: V.L. ACHLIYA,J.
DATE : 13.11.2019

ORAL ORDER:

The applicant-appellant has filed this application for condonation of 126 days delay in filing the appeal for the reasons set out in detail in the application.

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

3. In brief, it is the contention of learned counsel for the applicant/appellant that the delay caused in filing appeal was not deliberate and intentional but occurred for the reasons mentioned in detail in the

application. It is submitted that the applicant/appellant is old aged person and suffering from various ailments. He was unaware as to the decision given by the first appellate Court. After receiving knowledge, the applicant/appellant has taken necessary steps to file appeal. In the process, 126 days delay occurred in filing appeal. It is submitted that if delay is not condoned, the meritorious case may be rejected for technical reasons.

4. On the other hand, learned counsel for the respondent opposed the application with contention that the reasons assigned are not sufficient to condone the delay. It is submitted that the reasons assigned are false and concocted.

5. On due consideration of submissions advanced in the light of unchallenged, uncontroverted pleadings made in the application and overall facts of the case, I am of the view that the delay deserves to be condoned. Both sides have preferred the appeals. The respondent has also filed appeal against the impugned judgment and decree. In that view, the delay deserves to be condoned.

If the delay is condoned, no serious prejudice would cause to the respondent, as ultimately both the appeals will be heard and decided together on merit. I am therefore inclined to allow the application. Accordingly, Civil Application No.13024 of 2019 is allowed. Appeal be registered and place for admission along with Second Appeal No.281 of 2019 on 2nd December, 2019, subject to removal of office objection.

6. In meantime, parties are directed to maintain status-quo in respect of suit properties till 2nd December, 2019.

[V.L. ACHLIYA]
JUDGE

SGA