

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

20 CIVIL APPLICATION NO.1824 OF 2018
IN FAST/41687/2017 WITH CA/1825/2018 IN FAST/41687/2017

SURESH RAGHUNATH PATIL
VERSUS
SULOCHANA LOTANRAO DESALE AND ORS

...

Advocate for Applicant : Mrs. Kazi Sabahat T.
Mrs. Sangeet Minakshi L. For R/1 To 3;
Mr. Patil Shrikant S., Adv. For Resp.No.4..

CORAM : P.R. BORA, J.
DATED : 28th January, 2019.

PER COURT:-

1. Though delay of 21 days is stated to have occurred in filing the appeal, in the office remark, delay caused in filing the appeal is of about 386 days. Learned counsel for the applicant concedes this position.

2. Learned counsel submitted that financial constrain is the main reason, because of which, the applicant could not file the appeal within the stipulated period of limitation.

3. Learned counsel for respondents, i.e. original claimants, has opposed for condoning the delay, stating that the reason, as has been assigned, cannot be a ground for condoning the delay and factually also the reason, as has been assigned is incorrect and false.

4. Having considered the grounds of objections raised in exception to the impugned judgment, it appears that the applicant needs to be given an opportunity to prosecute the appeal on merits. In the alternative, it was contended by the learned counsel for the respondents claimants that if the Court is inclined to condone the delay, adequate costs may be imposed.

5. In view of the submissions made, I deem it appropriate to pass the following order, -

ORDER

i. The delay caused in filing the appeal is condoned subject to costs of Rs.5,000/- (Rupees five thousand) to be paid by the present applicant within fifteen days from the date of passing this order.

ii. On payment of the costs, the appeal be registered in accordance with law.

iii. CA for condonation of delay stands disposed of.

(P.R. BORA)
JUDGE

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