

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 253 OF 2016  
IN  
FIRST APPEAL (ST.) NO. 1451 OF 2016**

Paragaon Tradex Overseas Pvt. Ltd.

....Applicant

V/s.

Eagle Flask Industries Ltd. & Anr.

....Respondents

Mr. Mayur Khandeparkar a/w. Mr. Omkar M. Kulkarni for the  
applicant.

Mr. Dhananjay J. Bhanage for R.No.1.

**CORAM: SMT. ANUJA PRABHUDESSAI, J.  
DATED : 01<sup>st</sup> MARCH, 2019.**

**P.C.:**

. By this application, the applicant herein has sought to condone the delay of 95 days in filing the Appeal from Order against the judgment and decree dated 14/07/2015 passed by the 6<sup>th</sup> Addl. Judge, Small Causes Court, Pune in Special Civil Suit No.351/2011.

2. Mr. Mayur Khandeparkar, learned counsel for the applicant submits that the advocate representing the appellant had learnt about the said judgment only after he received an e-mail intimation on 02/01/2016 from the counsel for the respondents. He further submits that the appellant/applicant was not aware of the decree and the advocate who was representing the appellant had not informed him

and as such he could not file the appeal in time.

3. Mr. Dhananjay Bhanage, learned counsel for the respondent no.1 submits that the applicant was informed about the said judgment on 02/01/2016 and thereafter, the applicant was also informed that the decree was transferred to Delhi and the applicant in between had entered into correspondence as regards the mode / quantum of payment. He submits that the applicant has not made out sufficient grounds for condoning the delay.

4. I have perused the records and considered the submissions advanced by the learned counsels for the respective parties.

5. The records prima facie indicate that the impugned judgment was passed on 14/07/2015. The applicant was represented in the suit by a lawyer. The contention of the applicant is that his lawyer had not informed him about passing of the impugned judgment. The applicant contends that he learnt about the same on receipt of an email from the respondent.

6. In my considered view, the applicant should not be penalized for

negligence or inaction of his advocate particularly when the explanation does not smack of malafides. Hence, I am inclined to adopt liberal and justice oriented approach in condoning the delay. Inconvenience caused to the respondents can be compensated with costs.

7. Hence, the application is allowed. Delay is condoned subject to payment of cost of Rs.30,000/- (Rupees Thirty Thousand only) to be paid to the respondents within a period of four weeks. Appeal be registered.

8. Civil Application stands disposed of accordingly.

**(SMT. ANUJA PRABHUDESSAI, J.)**