

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

**WRIT PETITION NO.10178 OF 2018
WITH
CIVIL APPLICATION NO.2131 OF 2019**

Moti Udhamram Panjabi

... Petitioner

Vs.

Pimpri Chinchwad Municipal Corporation
and Anr.

... Respondents

.....

Ms. T.J. Kapre I/b. Mr. J.S. Kapre for the Petitioner.

Mr. Deepak More for the Respondents.

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CORAM : M. S. KARNIK, J.

DATE : 25th SEPTEMBER, 2019.

P. C.:

1. Heard learned counsel for the parties.
2. The challenge in this petition is to an order dated 17.11.2016 passed by the Appellate Court refusing to condone the delay of 123 days in filing the Appeal. The Appellate Court was of the opinion that in respect of the alleged illness of the petitioner nothing has been placed on record to substantiate the contention. According to the Appellate Court the petitioner has been negligent and has put forth false and incorrect facts.

3. I have gone through the reasons mentioned in the application for condonation of delay. The suit filed by the petitioner was for declaration, mandatory and perpetual injunction. The same was dismissed on 28.11.2014. For the delay in filing the Appeal the reason cited by the petitioner is his own illness. In my opinion considering the length of the delay which is of 123 days, the delay in filing the Appeal could have been condoned by the Appellate Court by imposing some cost. The petition is therefore allowed subject to payment of cost of Rs.1,000/-. Learned counsel for the respondent graciously submits that he has no objection if the cost is paid to the Kirtikar Law Library. The cost to be paid within a period of two weeks from today.

4. The Appeal is allowed. The impugned order is set aside. The delay in filing the Appeal is condoned.

5. In view of the disposal of the Appeal, nothing survives for consideration in the Civil Application. The Civil Application is disposed of accordingly.

(M. S. KARNIK, J.)