

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1679 OF 2018
(for condonation of delay)
IN
SECOND APPEAL (ST.) NO. 20367 OF 2018

Gulam Hussain Mohammed Duste ...Applicant

v/s.

Khalid Ahmed A. Gani Phajandar

(Through POA) Mohd. Sharif

Hasan KauchaliRespondent

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Mr. Nitin Mulye, Advocate for the applicant.

Mr. Madhav Jamdar i/by. Mr. Sujay H. Gangal,
Advocate for the respondent.

CORAM : SANDEEP K. SHINDE, J.

Friday, 13th September, 2019.

P.C. :

1. It is an application for condonation of

delay of 223 days caused in preferring the Second Appeal against the decree dated 21st August, 2017 passed in Regular Civil Appeal No.26 of 2013.

2. Appellant is a defendant against whom the eviction decree was passed by the trial Court on 17th December, 2012. This decree was confirmed in the Regular Civil Appeal on 21st August, 2017. The appellant applied for certified copy on 23rd August, 2017 and received it on 12th September, 2017. He filed the Second Appeal alongwith an application for condonation of delay.

3. The learned Counsel for the applicant submits that the applicant was in search of the Advocate practising in the High Court for filing the Second Appeal. He further submits that the applicant could not gather all the necessary papers, as well, could not arrange fees payable to

Advocate. The applicant has stated these two reasons, constitute "sufficient cause" in para-2 of the Civil Application.

4. It is settled law that, acceptance of explanation furnished should be the rule and refusal, an exception. Whether explanation furnished would constitute sufficient cause or not will be dependent upon facts of that case. However, when no negligence or inaction or want of *bonafides* are imputed, explanation should be accepted. Hon'ble Apex court has held in **Ramnath Sao V/s. Gobardhan Sao, reported in (2002) 3 SCC 195** that, while considering the matter the Court should not loose sight of the fact that by not taking steps within time prescribed, a valuable right has accrued to the other party, which should not be lightly defeated by condoning the delay in routine like manner. Herein, reasons

do not constitute sufficient cause. No particulars are placed on record in support of these two reasons. More so, eviction decree was passed in 2012. The Civil Application is therefore dismissed.

(SANDEEP K. SHINDE, J.)