

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

CIVIL APPLICATION NO.4907 OF 2016
IN
FIRST APPEAL STAMP NO.26943 OF 2016

Mrs. Sashi Devi Bangur ... Applicant.
V/s.
Laxmi Asbestos Products Ltd. ... Respondents.

None for the Applicant.
Ms.Ameya Deostali i/b M/s.Hariani & Co. for the Respondents.

CORAM : V.G. BISHT, J.

DATE : 6TH DECEMBER, 2019.

P.C.:

1. None present for the applicant. Heard Ms.Ameya Deostali, learned counsel for the respondents.
2. Read application. The applicant is seeking condonation of delay of 54 days in filing the present appeal against the judgment and decree passed in Civil Suit No.3344 of 2011 by learned Judge, City Civil Court, Mumbai. According to the applicant, the delay is unintentional and despite pursuing matter diligently could not file appeal within time due to unavoidable circumstances. He, therefore, prays for condonation of delay of 54 days in preferring the appeal.
3. Learned counsel for the respondents submitted before me that the delay is not satisfactorily explained and whatever is contended in paragraphs 4 and 5 of the application about delay is full of vagueness. In the

circumstances learned counsel submitted that the delay should not be condoned.

4. I have carefully gone through the contents of application. It is specifically mentioned by the applicant that he was diligently pursuing the case and due to unavoidable circumstances there is delay and he could not prefer appeal in time. It may be that those unavoidable circumstances are not explained yet by not filing the appeal in time, the applicant could not have gained anything. Moreover, having regard to delay of 54 days, in my considered opinion, it is always desirable that the matter be heard on its own merits by affording equal opportunity to both the parties. The respondent will not suffer any loss nor any prejudice would be caused to them, if the matter is heard after condoning the delay.

5. In the circumstances the application is allowed and delay of 54 days stand condoned. The appeal be registered in accordance with law and be put up for admission after vacation.

(V.G. BISHT, J.)