

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

**INTERIM APPLICATION 1 OF 2019
IN
SECOND APPEAL (ST) No. 25997 OF 2019**

**Sai Oil Depot And Mini Market
(Represented through Proprietor
Shri Ganesh Raghunath Jagtap) ...Applicant**
**Vs.
Shri Vardhanam Shwetambar
Sthahakwa Jain Shrav Sang and Ors. ...Respondents**

Mr. Prashant P. More for Applicant
Mr. Jaydeep Deo for Respondent Nos.1 and 2

CORAM : S.C. GUPTE, J.

DATE : NOVEMBER 29, 2019

P.C.:

1. Heard learned counsel for the parties.
2. This interim application seeks condonation of delay in filing the second appeal. The delay is of 669 days. The order challenged in the second appeal was itself on the basis of a delay in filing the first appeal. This delay was of 3 years and 231 days. The district court, hearing the first appeal, refused to condone that delay. The order has been challenged in the present second appeal after a delay, as noted above, of 669 days. There is hardly any explanation worth the name in respect of this delay.
3. The applicant submits that there were some ailments, one does not know which, afflicting the applicant and preventing him from taking immediate steps for filing of the first appeal. This itself offers no explanation of delay in filing the first appeal. The condonation of delay application was heard and rejected on 4th October, 2017 by the lower appellate court. The delay in filing the first appeal was sought to be

explained simply by stating that the applicant/appellant was a layman, conducting a petty business; his mother died on 8th November, 2016 i.e. around one year prior to the passing of the impugned order; his uncle was blind; his brother worked in police department and due to the nature of his job, and was unable to pay the requisite attention in the matters of family; and his younger brother was working in IT industry and after arriving back to India from USA in the year 2007, had settled down to Hyderabad for a few years and then to Bangalore. These are hardly sufficient reasons to justify a case for condonation of delay. But at least the reasons are stated, though they are hardly statable. But so far as the present delay condonation application is concerned, there is neither a stated reason or a statable one. The civil application is accordingly dismissed.

[S.C. GUPTE, J.]