

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

901 CIVIL APPLICATION NO.5349 OF 2010
IN
FAST/9013/2010

THE ORIENTAL INSURANCE CO LTD
THROUGH DIVNL MANAGER SOLAPUR
VERSUS
SMT USHA UMAKANT DESHMUKH AND ORS

...
Mr.V.N.Upadhye, Advocate for applicant.
Mr.S.S.Shinde, Advocate for R-4.
Mr.Sachin Deshmukh, Advocate for R-7.
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CORAM : V.L. ACHLIYA, J.
DATE : 23/01/2020
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ORAL ORDER:

1. The applicant/appellant has preferred this application for condonation of 38 days delay in filing appeal for the reasons set out in detail in the application.
2. Heard learned counsel for applicant and respondent Nos. 4 and 7.
3. Learned counsel for applicant submits that delay caused in filing appeal can not be termed as intentional and deliberate. The Judgment and Award was passed by Tribunal on

05/10/2009. The application for getting certified copies was filed on 07/10/2009 and copies were received on 23/11/2009. Thereafter concerned Advocate vide his opinion dated 04/12/2009 forwarded the documents to branch office at Latur. The branch office forwarded the opinion to Divisional office at Solapur. The Divisional office referred the matter to Regional office. Regional office obtained the opinion of Senior Advocate and taken decision to file appeal. In such process delay caused in filing appeal. The applicant has good case to succeed in appeal. If delay is not condoned, it would cause serious prejudice to applicant. No prejudice would be caused to respondents if delay is condoned.

4. On the other hand, learned counsel for respondents opposed the application with contention that the reasons assigned are false and concocted and same are not sufficient to condone delay of 38 days. Learned counsel urged to reject the application.

5. On due consideration of submissions advanced in the light of unchallenged,

uncontroverted pleadings made in the application, I am of the view the delay deserves to be condoned. No prejudice would be caused to respondents if delay is condoned as ultimately the case will be decided on merit. On the contrary, if delay is not condoned, serious prejudice would be caused to the applicant. I am, therefore, inclined to allow the application. Accordingly, the application is allowed in terms of prayer clause 'B'. Delay condoned. Appeal be registered.

6. Civil Application disposed of in above terms.

[V.L.ACHLIYA]
JUDGE

KNP