

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

948 CIVIL APPLICATION NO.6524 OF 2019
IN FAST/13804/2019

AUTOMOBILE ENGINEERS AND SERVICES THROUGH ITS PROPRIETOR
VERSUS
RUKHMINIBAI RAJU DHOBAL AND OTHERS

...

Advocate for Applicants : Shri Amol Gandhi h/f Shri Mehta Punit S.

Respondent nos.1 to 4 served.

Advocate for Respondent no.5 : Shri S.S. Bora h/f Shri V.S. Janephalkar

Advocate for Respondent no.6 : Shri A.B. Gatne

Dismissed against respondent no.7 as per order dated 20/9/2019.

CORAM: V.L. ACHLIYA, J.
DATE: 14.02.2020

PER COURT :

1] The applicant - appellant has moved this application seeking condonation of 295 days delay in filing appeal for the reasons set out in detail in the application.

2] Heard learned counsel for the applicant - appellant and respondent nos.5 & 6. The respondent nos.1 to 4 though served are absent.

3] Learned counsel for the applicant submits that the delay caused in filing appeal cannot be termed as intentional and deliberate. It is submitted that the Tribunal proceeded *ex-parte* against the applicant - appellant. The applicant has no knowledge about the order of pay and recover passed against the applicant - appellant. Only after execution is filed in the matter, the applicant came to know about the order of pay and recover passed in the

matter. It is submitted that the applicant has good case to succeed on merits. If delay is not condoned, there is every likelihood that meritorious matter may be rejected for technical reason.

4] Learned counsel for the respondent nos.5 & 6 strongly opposed the application with contention that the reasons assigned cannot be accepted as sufficient cause to condone the delay. It is submitted that the reasons as assigned for condonation of delay are false and concocted. No case is made out to condone the delay.

5] On due consideration of the submissions advanced in the light of unchallenged and uncontroverted pleadings made in the application assigning the cause for condonation of delay, I am of the view that the application deserves to be allowed. Keeping in mind the broad principles laid down by the Apex Court in the case of *Esha Bhattacharjee V/s Managing Committee of Raghunathpur Nafar Academy and others* reported in **(2013)12 S.C.C. 649**, I am of the view that the delay deserves to be condoned.

6] Accordingly, the application is allowed. Delay condoned. Appeal be registered and placed for admission on 17.3.2020.

(V.L. ACHLIYA, J.)