

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

**938 CIVIL APPLICATION NO.12423 OF 2019
IN SAST/29167/2019**

**MAHARASHTRA STATE ELECTRICITY TRANSMISSION COMPANY
LIMITED THROU. EXECUTIVE ENGINEER
VERSUS
RUKHMINIBAI VITTHAL CHAVAN AND OTHERS**

Miss Neha Kamble h/f. Mr. S.V. Adwant, Advocate for the applicant.

Mr.M.P. Tripathi h/f. Mr.N.B. Khandare, Advocate for respondent Nos. 1 to 4.

CORAM : S.M.GAVHANE, J.

DATED : 24.01.2020

P.C. :-

. The appellant/original defendant No.1 has filed this application to condone delay of 294 days caused in filing the Second Appeal, aggrieved by the judgment and decree dated 28.08.2018 passed by the learned Adhoc District Judge-1, Ambajogai in Regular Civil Appeal No.36 of 2012, thereby reversing the decree of dismissal of Special Civil Suit No.27 of 1990 filed by respondent Nos.1 to 4.

2. Learned Counsel appearing for the applicant submitted that initially the appeal was filed in this Court. By virtue of change of pecuniary jurisdiction of the District Courts, it was sent to the District Court.

In the intervening period, the Counsel representing present applicant did not inform the applicant about status of appeal and only in the month of April, 2019, when the officer of the applicant/company enquired with the Advocate about status of the matter, the applicant came to know that the Appellate Court has reversed the judgment and decree of the Trial Court. Thereafter, the Executive Engineer, Latur on 16.04.2019 informed the Chief Legal Adviser, MSETCL about the liability of the appellant and challenge to be made before the High Court. Thereafter, learned Counsel Mr. Jitendra Pathade and subsequently learned Counsel Mr. Adwant was requested to file appeal and in the above circumstances, according to learned counsel for the applicant, delay of 290 days has been caused which is unintentional.

3. Learned counsel appearing for respondent Nos. 1 to 4 though opposed to grant the application, there is nothing on record to substantiate said objection. It appears that respondent Nos. 5 and 6 are served but nobody is present for them.

4. Considering the submissions made by the learned counsel appearing for the applicant and the grounds mentioned in paragraph Nos. 4 to 11 of the application, it appears that the delay caused in filing the appeal is

unintentional and therefore it is just to condone the same as the applicant has shown sufficient cause. Therefore, the application is allowed in terms of prayer clause (B).

5. The appeal be registered and place the appeal for further consideration on 11.03.2020.

[S.M.GAVHANE, J.]