

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

953 CIVIL APPLICATION NO.13088 OF 2019
IN FIRST APPEAL STAMP NO.29711 OF 2019

MOHAMMAD RAIS MOHAMMAD YUNUS
VERSUS
RUKHMINIBAI RANGNATH KALE & OTHERS

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Advocate for Applicant : Mr.S.G.Shete
Advocate for respondent nos.1 to 3 :
Mr.Rajput h/f.Mr.Kailas Jadhav.

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CORAM : V.L.ACHLIYA,J.
DATE : 07.02.2020

P.C.

1] The applicant has moved this application seeking condonation of 622 days delay in filing appeal for the reasons set out in detail in the application.

2] Heard learned counsel for the applicant and the respondents.

3] In brief, it is the contention of the learned counsel for the applicant-appellant that delay caused in filing appeal cannot be termed as deliberate and intentional. It is submitted that advocate representing applicant-appellant has not informed about progress of the proceedings as well as the decision in the case. Only after

receipt of the notice of the execution of award passed in the matter, the applicant-appellant came to know that the judgment and award has been passed against him. He, therefore, approached the advocate and as per advise, secured copies and finally preferred Appeal. It is submitted that the applicant-appellant has good case to succeed on merit. If delay is not condoned, serious prejudice would cause to the applicant.

4] On the other hand, leaned counsel for the respondents opposed application with contention that the reasons assigned are false and concocted and cannot be accepted as sufficient cause to condone delay.

5] On due consideration of the submissions advanced in the light of unchallenged and uncontroverted pleadings made in the application assigning cause for condonation of delay, I am of the view that delay deserves to be condoned. If delay is condoned, no serious prejudice would cause to the respondents as ultimately appeal will be decided on its own merit. Keeping in mind broad principles laid down by the Apex Court In the case of *Esha Bhattacharjee v. Managing*

Committee of Raghunathpur Nafar Academy & others reported in (2013) 12 SCC 649, I am of the view that delay deserves to be condoned. Accordingly, application is allowed in terms of prayer clause-B. Delay condoned.

6] Appeal be registered subject to removal of office objection.

7] Civil Application is disposed of in above terms.

[V.L.ACHLIYA]
JUDGE

DDC