

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

948 CIVIL APPLICATION NO.12340 OF 2019
IN FIRST APPEAL STAMP NO.29834 OF 2019

M.S.R.T.C., NANDED
VERSUS
SUNITA ANANDA RAJMORE & OTHERS

...
Advocate for Applicant : Mr.M.K.Goyanka.
Advocate for respondent nos.1 to 6 :
Mr.H.I.Pathan
...

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

P.C.

1] The applicant has moved this application seeking condonation of 85 days delay in filing appeal for the reasons set out in detail in the application.

2] Heard learned counsel for the applicant. Advocate Mr.H.I.Pathan appears and submits that he has received instructions to appear on behalf of the respondent nos.1 to 6 and undertakes to file *Vakalatnama* within two weeks from today.

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 delay was caused as the matter was required to be processed for seeking approval from the authorities of the Insurance Company. After seeking opinion of the Advocate representing the applicant-appellant, appeal was processed and proposal was sent to the Central Office at Mumbai. In the process, delay of 85 days has been caused in filing appeal. The applicant-appellant has good case to succeed on merit. If the delay is not condoned, serious prejudice would cause to the applicant-appellant. The applicant-appellant has deposited the amount in terms of the award.

4] On the other hand, learned counsel for the respondents opposed the 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 and delay of 85 days cannot be termed as inordinate, I am of the view that delay deserves to be condoned. If delay is not condoned, serious prejudice would cause to the applicant—appellant. On the contrary, if delay is condoned, no serious prejudice would cause to the respondents as ultimately appeal will be decided on its own merit. Therefore, I am inclined to allow the application. Accordingly, the 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