

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

907 CIVIL APPLICATION NO.13496 OF 2019 IN
FAST/30218/2019

M/S ROYAL SUNDARAM ALLIANCE INSURANCE CO.
LTD.,
VERSUS
DODDI DURGA AND ORS

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Mr.V.N. Upadhye, Advocate for appellant.
Mr.R.R. Karpe, Advocate for respondent nos.1
to 3.

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CORAM: V.L. ACHLIYA, J.
DATE : 26.02.2020

ORAL ORDER:

The applicant-appellant has moved this application seeking condonation of 218 days delay in filing appeal for the reasons set out in detail in the application.

2. Heard learned counsel for the applicant-appellant and the counsel representing the respondent nos.1 to 3. Respondent No.4 has refused to accept the service by assigning reason that his name is Babasaheb and not Balasaheb as reflected in summons.

3. Learned counsel for the applicant pointed out that the notice of Claim

Application was served upon the Respondent no.4 as Balasaheb Narayan Nawale and he has recorded appearance through Advocate. He has never disputed and raised any grievance about his name before the Tribunal. The respondent no.4 is impleaded as party respondent in appeal as per the name reflect in the award passed by the Tribunal. In view of the facts apparent from the face of record that the respondent no.4 accepted the service of notice before the Tribunal as Balasaheb Narayan Nawale. The refusal to accept service to be treated as good service.

4. In brief, it is the contention of learned counsel for the appellant-applicant that the delay caused in filing appeal cannot be termed as deliberate and intentional. It is submitted that after award passed by the Tribunal, the proposal for preparing the appeal processed for securing the approval from the Divisional Office at Chennai. After securing the permission the appeal has been presented. In the process, 218 days delay has been caused in filing appeal. It is submitted that, the appellant has good case on merit. In case the delay is not condoned, there is every likelihood that the meritorious matter

may be rejected for technical reason.

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

6. On due consideration of submissions advanced in the light of overall facts of the case, the reasons assigned for condonation of delay and pleadings made assigning the cause for condonation of delay remained unchallenged and uncontroverted, I am of view, the delay deserves to be condoned. No prejudice would cause to the other side if the delay is condoned as ultimately the case will be decided on merits. On the other hand, if the delay is not condoned then the serious prejudice may cause to the applicant. I am therefore inclined to allow the application. Accordingly, the application is allowed in terms of prayer clause "A". Delay condoned. Appeal be registered.

7. Office objections, if any, be removed within two weeks from the registration of appeal.

8. Civil Application is disposed of in
above terms.

[V.L. ACHLIYA]
JUDGE

SGA