

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

**929 CIVIL APPLICATION NO.1237 OF 2019
IN FAST/36597/2018**

**SUNITA SURESH BIRADAR @ BIRAJDAR AND
ORS**

VERSUS

RAJU MAKHANSING YADAV AND ORS

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Mr. Amol Gandhi h/f Mr. Ram.S.Shinde,
Advocate for applicants.

Mr. R.A.Karwa h/f Mr. R.F.Totla,
Advocate for R – 3.

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CORAM: V.L. ACHLIYA,J.

DATE : 17/01/2020

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ORAL ORDER:

1. The applicants/appellants have preferred this application for condonation of 168 days delay caused in filing appeal for the reasons set out in detail in the application.

2. Heard learned counsel for applicants and respondent No. 3/Insurance Company.

3. Learned counsel for applicants submits that delay caused in filing appeal can not be termed as intentional and deliberate. It is submitted that applicants have good case to succeed in appeal. If delay is not condoned, it would cause serious

prejudice to the applicants. No prejudice would be caused to the respondents if delay is condoned.

4. On the other hand, learned counsel for respondent No. 3 opposed the application with the contention that the reasons assigned are false and concocted and same are not sufficient to condone the delay of 168 days.

5. On due consideration of submissions advanced in the light of unchallenged, uncontroverted pleadings made in the application, I am of the view the delay deserves to be condoned. No prejudice would be caused to the respondents if delay is condoned, as ultimately the case will be decided on its own merit. On the contrary, if delay is not condoned, serious prejudice would be caused to the applicants. I am, therefore, inclined to allow the application. Accordingly, the application is allowed in terms of prayer clause 'B'. Delay condoned. Appeal be registered subject to removal of office objections.

6. Civil Application disposed of in above terms.

[V.L.ACHLIYA]
JUDGE