

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

**921 CIVIL APPLICATION NO.8661 OF 2019
IN FAST/21263/2019 WITH CA/8662/2019 IN FAST/21263/2019**

**DIVISIONAL MANAGER, UNITED INDIA INSURANCE CO. LTD., THR ITS
AUTHORISED SIGNATORY, AURANGABAD
VERSUS
VAIBHAV JAYRAM MEDGE AND ANR**

Shri. V. R. Mundada, Advocate for the applicant

CORAM : M. G. SEWLIKAR, J.

DATED : 09-02-2021

P.C. :-

. Heard Shri. Mundada, learned counsel for the applicant. None of the respondents has appeared though notices have been served on them.

2. The applicant has alleged that the Advocate had advised against preferring appeal. The Insurance Company sought advise of panel advocate. On the advise of another Advocate the appeal is preferred due to which delay is caused in preferring the appeal. It appears that the applicant has made out a sufficient cause for condonation of delay. Other side can be compensated with costs.

3. In the case of **Improvement Trust, Ludhiana Vs. Ujagar Singh and Others, (2010) 6 SCC 786**, it has been held thus:

"It is pertinent to point out that unless mala fides are writ large on the conduct of the party, generally as a normal rule, delay should be condoned. In the legal arena, an attempt should always be made to allow the matter to be contested on merits rather than to throw it out on such technicalities."

4. Nothing has been brought on record to show that any right is accrued to the respondent because of the delay.

5. Therefore application is allowed subject to cost of Rs. 7500/- to be paid within four weeks. On depositing the cost, it be paid to the claimants.

[M. G. SEWLIKAR, J.]

ssp