

3. The applicant and respondent are husband and wife. The applicant is original defendant in HMP No.334/2009 filed before Civil Judge, Senior Division, Jalgaon for restitution of conjugal rights. The applicant had resisted the said

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proceeding by filing written statement. He had filed HMP No.364/2009 before the same Court for dissolution of marriage. The petition for restitution of conjugal rights came to be decreed; whereas the petition for dissolution of marriage, came to be dismissed on 23.6.2011. The applicant had filed RCA No.128/2011 and 129/2011 to challenge the respective decrees. Both the appeals were dismissed by common judgment by learned District Judge-4, Jalgaon on 30.1.2017. The applicant says that he has already filed Second Appeal, challenging the judgment and decree in respect of dismissal of his petition for divorce. However, as regards the other proceeding is concerned, there was typographical mistake with the judgment of the first Appellate Court. He was then required to file Day Application No.1/2017 to get said error corrected and after it was got corrected, he is approaching this Court. However, there is delay of 583 days. He says that the said delay was beyond his control.

4. Correction in the typographical mistake occurred in the judgment can be seen and, therefore, there is no reason to disbelieve that part. However, when common judgment is given and he has already filed the Second Appeal, challenging the common decree, he ought not to have made the application for correction after a long time and, therefore, definitely inconvenience that would have caused to the respondent deserves to be compensated. Hence, following order, -

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ORDER

i. The application stands allowed and disposed of.

ii. The delay caused in filing the Second Appeal stands condoned, subject to deposit of costs of Rs.10,000/- (Rupees ten thousand) within a period of one month from today in this Court.

iii. After the amount is deposited, Registry to verify and register the Second Appeal.

iv. The amount of costs be given to the respondent.

(SMT. VIBHA KANKANWADI)
JUDGE

BDV