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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 200 OF 2020
IN
SECOND APPEAL (ST) NO. 13462 OF 2019**

Dhanaji Ganpati Khade ...Applicant
Vs
Sushila Dattatraya Apke & Ors. ...Respondents

Mr. Manoj Patil for the Applicant.
Mr. Amol Dhumal for Respondent No.1.
Mr. Jotiram R. Jadhav for the Respondent Nos.2 to 4.

**CORAM : A.S.GADKARI, J.
DATE : 8th OCTOBER, 2021**

PC. :

1. This is an application for condonation of delay of one year and 277 days in filing the present Second Appeal.
2. Heard learned Advocates for the respective parties. Perused record.
3. Applicant– original Defendant No.3 has stated that, the said delay has caused as the Applicant was suffering from financial crises arising out of continuous illness of his wife who was/is suffering from Spondylosis. That both the daughters of the Applicant are taking

education. That, the Applicant is the only earning member in his family. Due to the said reason, the Applicant could not immediately appoint an Advocate to file the present Appeal.

4. Learned Advocate for Respondent No.1 opposed the Application and submitted that, the said Respondent has filed a reply dated 6th July, 2021 to the present Application, opposing condonation of delay. He further submitted that, if the Court is inclined to condone the delay then substantial costs may be imposed upon the Applicant.

5. Perusal of affidavit filed by Respondent No.1 would indicate that, the facts noted herein above for seeking condonation of delay and more specifically mentioned in para 7 of the application, have not been denied by him and the said facts are unchallenged.

6. Learned counsel for Respondent Nos.2 to 4 on instructions, submitted that, the said Respondents have no objection in condoning delay and allowing present application.

7. In view of the above and in the interest of justice, the delay is condoned subject to condition that, the Applicant shall pay cost of Rs.10,000/- to the High Court Legal Services Committee, Mumbai within a period of three weeks from today.

The Applicant to pay/deposit the costs in the account namely

“High Court Legal Aid Fund”, Account No. 60045304283, IFSC-MAHB0000002 of the Bank of Maharashtra, Branch-Fort, Mumbai-400032, maintained by the High Court Legal Services Committee, Mumbai, Room No. 105, 1st Floor, PWD Building, High Court, Mumbai and to furnish the details of such costs to the High Court Legal Services Committee, Mumbai and obtain the receipt thereof physically or through Email i.e. hclsc.mumbai@gmail.com which shall be the proof of such payment/deposit.

8. Subject to payment/deposit of the aforestated costs, delay is condoned and the Civil Application is allowed in terms of prayer clause (a).

It is made clear that, if the Applicant fails to deposit the aforesaid costs within stipulated period, the present Application shall stand dismissed without further reference to this Court.

(A. S. GADKARI, J.)