

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 725 OF 2021
IN
FIRST APPEAL (ST) NO. 2477 OF 2021

ALONG WITH
INTERIM APPLICATION NO. 726 OF 2021
(FOR INJUNCTION)

Prahladsingh Ramkhilavansingh

(Since Deceased)

Through his Heir and legal representative

Savitri Wd/o Surender Singh Prahladsingh

...Applicant
/Appellant

vs.

Shri Sudhir J. Bhalekar & Anr.

...Respondents

Ms. Asha M. Bhambwani, for the Applicant/Appellant.

Ms. Kavita A. Shah for the Respondent No.2.

CORAM : N. J. JAMADAR, J.

DATE : 17th NOVEMBER, 2021

P.C.:

1. Heard the learned counsel for the applicant and learned counsel for respondent No.2.

2. This application is preferred to condone the delay of 50 days in preferring the appeal against the Judgment and Decree dated 19th October, 2019 in S.C. Suit No.3856 of 1999 passed by the learned Judge, City Civil Court, Mumbai.

3. The primary reason assigned in the application for delay in preferring the appeal is that the appellant being a senior citizen

could not contact her advocate and give necessary instructions to file the appeal.

4. The learned counsel for the respondent No.2 resisted the prayer in the application on the ground that, certified copies of the impugned Judgment and Decree were made available to the applicant much before the imposition of the lockdown on account of COVID-19 pandemic.

5. The applicant has ascribed justifiable reasons in the application to make out sufficient cause for condonation of delay. It is trite that the application for condonation of delay should receive liberal consideration so as to advance the cause of substantive justice. It does not appear that there is deliberate inaction or want of bonafide. The period of delay is also not huge. In the totality of the circumstances, it would be expedient in the interest of justice to condone the delay so as to provide an opportunity to the appellant to call in question legality, propriety and correctness of the impugned Judgment and Decree on merits. Hence, the following order.

ORDER

1] The application stands allowed in terms of prayer clause (a).

2] The delay in preferring the appeal against the

judgment and order dated 19th October, 2019 stands condoned.

3] Interim Application No.725 of 2021 stands disposed of.

4] Appeal be registered and listed “For Admission” on 8th December, 2021.

(N. J. JAMADAR, J.)