

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****I.A. NO. 3172 OF 2020****IN****SECOND APPEAL (STAMP) NO. 4612 OF 2020**

Shri. Rajendra Ramlal Dube

.....Applicant.

IN THE MATTER BETWEEN-

Shri. Rajendra Ramlal Dube

.....Appellant.

Vs.

Smt. Saroj Kirti Bafna

.....Respondent.

Mr. S.P. Kadam a/w Akhilesh Singh i/by Legal Brains for the
Applicant/Applicant.

Mr. Sanjiv Sawant i/by Abhishek P. Deshmukh for the Respondent.

CORAM : A. S. GADKARI, J.**DATE : 18th NOVEMBER, 2021.****PC.:-**

This is an Application for condonation of delay of 218 days in
filing the present Second Appeal.

2 Mr. Kadam, learned counsel appearing for the Applicant-
Appellant submitted that, the Applicant was suffering from various ailments
and particularly heart ailment and therefore, could not immediately contact
his Advocate practicing in High Court. He submitted that, Doctor had
advised the Applicant-Appellant to take rest and not to travel is one of the
attending circumstance in not filing the present Second Appeal within a

period of limitation and therefore, there is a delay in filing it.

3 Mr. Sawant, learned counsel for the Respondent-Original Plaintiff opposed the Application and submitted that, the Applicant chose to file the present Appeal after the notice of execution served upon him by the Executing Court and till then he did not take steps to file the present Appeal. He however, did not question genuineness of the Medical Certificates issued by the concerned Doctor. He further submitted that, if this Court is inclined to condone the delay, exemplary costs may be saddled on the Applicant/Appellant.

4 In view of the above and in the interest of justice, the delay in filing Second Appeal is condoned subject to condition that, the Applicant/Appellant shall pay costs of Rs.10,000/- to the High Court Legal Services Committee, Mumbai within a period of two weeks from today.

The Applicant to 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.

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

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

(A.S. GADKARI, J.)

SANJIV
SHARNAPPA
MASHALKAR

Digitally signed by
SANJIV
SHARNAPPA
MASHALKAR
Date: 2021.11.22
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