

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.2251 OF 2018
IN
FIRST APPEAL (ST.) NO.2310 OF 2018

Javerilal P. Kothari .. Applicant

Vs.

Radhika Raghunath Karnik Through
Constituted Attorney Raghunath V.
Karnik & Anr. .. Respondents

...

None for the applicant.

Mr. Amol Gatne for respondent No.2.

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CORAM : SMT. BHARATI DANGRE, J.

DATED : 07TH OCTOBER, 2021.

P.C:-

1. None for the applicant. Respondent No.2 is served and is represented through learned counsel.

2. By the present application, the applicant has sought

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condonation of delay of 587 days in instituting the first appeal, being aggrieved by the judgment and order dated 17/03/2016 passed by the MACT at Kalyan.

3. In the application, the applicant has stated that since the judgment and decree was passed ex-parte, he had no knowledge of the same and on receiving a copy of the appeal from respondent No.2, he came to know about the decree being passed. The delay has been sought to be explained by asserting that the advocate appointed by him never collected the copy of the judgment and, therefore, the applicant was required to depute some other advocate, who applied for a copy of the impugned judgment on 25/10/2017 and it was issued to the applicant on 06/11/2017. Thereafter, on completion of the necessary formalities for instituting the first appeal, it was presented on 22/01/2018.

4. Learned counsel for the respondents submits that the application depicts the lethargy and callousness on the part of the applicant and the delay does not deserve to be condoned.

5. On perusal of the application and on recording the reasons mentioned therein, I am of the considered opinion that the applicant is not at fault and he has already suffered an ex-parte decree and he deserves to be afforded an opportunity by condoning the delay, which is *bona fide* and the same has

been satisfactorily explained. In the wake of the averments made in the application, Civil Application No.2251 of 2018 is made absolute in terms of prayer clause (a).

6. The first appeal is directed to be registered and to be listed for further hearing on 23/11/2021.

[SMT. BHARATI DANGRE, J.]