

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

**13 CIVIL APPLICATION NO.5206 OF 2021
IN SAST/13721/2021
SURESH NAGAYYA SWAMI
VERSUS
YASIN TOLAN BHAGWAN**

Mr. Sachin B. Solanke, Advocate h/f Mr. Ashraf
Patel, Advocate for the applicant
Mr. S. N. Patne, Advocate for the respondent No.2

CORAM : MANGESH S. PATIL, J.

DATE : 11th April, 2022

P. C.

1. This is an application under Section 5 of Limitation Act for condonation of delay of 1850 days in filing the second appeal.

2. I have heard the learned Advocate of both the sides. The applicant is original plaintiff who was unable to obtain the decree for perpetual injunction to protect the possession over his property.

3. It has been specifically averred in the application that he has heart problem and suffering from various ailments. He has further stated that he is taking regular medical treatment and due to all

these factors he was unable to prefer the appeal in time. He has also annexed various papers to demonstrate the treatment undergone.

4. Other side has not controverted the averments made in the application by filing reply and the grounds go without any demur.

5. Considering all the aforementioned facts and circumstances when the cause being putforth is duly corroborated by the papers regarding treatment and the fact that the applicant is having heart problem and various ailments, for the reasons mentioned in the application, the application is allowed and delay is condoned subject to applicant depositing cost of Rs.5,000/- for being paid to the other side, to be deposited within two weeks from today. On such cost being deposited, delay stands condoned and appeal be registered. List the appeal on 28 April 2022 for admission.

[MANGESH S. PATIL, J.]