

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

933 CIVIL APPLICATION NO.2581 OF 2018
IN FAST/35430/2017

JIJABAI BALAJI @ BALOBA KHOKALE
VERSUS
PUNDALIK BALIRAM DHEKALE AND ANR

...
Advocate for Applicant : Mr. V.R. Kalyankar h/f. Choudhari Sushant B
Advocate for Respondents : Mr. R.D. Borde h/f. Malte Uday S. for R/2
...

CORAM : Y.G. KHOBRAGADE, J.
DATE : 16th November, 2022

PC.:-

Heard the learned counsel appearing for the applicant and the learned counsel appearing for the non-applicant no.2. None appeared for non-applicant no.1.

2. In the present application the applicant prayed for condonation of delay of 83 days caused in lodging the appeal against the judgment and award dated 13.04.2017 passed by the M.A.C.T., Osmanabad in M.A.C.P No.280/2016 on the ground that due to her financial crisis and for want of documents she could not file present appeal within the stipulated period therefore delay is caused, which is *bona fide* and substantial.

3. Per contra, the learned counsel appearing for non-applicant no.2 strongly objected the application on the ground that the applicant has not set out *bona fide* and substantial grounds, hence prayed for rejection of the same.

4. It is trite and well settled principle of law that the litigant should not suffer from receiving substantial justice on the technical ground and the Court should be liberal while condoning the delay, if the *bona fide* and substantial reasons are assigned by the applicant. In the case in hand, it *prima face* appears that the delay of 83 days is caused while lodging the appeal because of poor financial condition of the present applicant and no one in the family is to look after her, so also, she could not receive documents from her earlier counsel which appears to be *bona fide* and substantial. Hence, I proceed to pass the following order:

ORDER

- I) The Civil Application is hereby allowed.
- II) The delay of 83 days caused in filing appeal is hereby condoned.
No order as to costs.
- III) The applicant shall not be entitled for the interest and statutory benefits for the delayed period.
- IV) Office is directed to register the first appeal and place it before the Court for further action.