

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

**CIVIL APPLICATION NO. 4608 OF 2019
IN
FIRST APPEAL STAMP NO. 38684 OF 2018**

Rajshri Santosh Gutte ... Applicant
Versus
Santosh Dattatraya Gutte ... Respondent

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Mr. Rakesh N. Jain, Advocate h/f Mr. A. H. Kazliwal, Advocate for applicant

Mr. V. G. Kodale, Advocate h/f Mr. V. D. Gunale, Advocate for respondent

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CORAM : Y. G. KHOBRADE, J.

DATED : 17th NOVEMBER, 2022

PER COURT :-

. Heard learned counsel appearing for the applicant and the learned counsel for the respondent at length.

2. By way of present application, the applicant prayed for condonation of delay of 671 days caused in filing appeal against the judgment and order dated 17.11.2016, passed by the learned Civil Judge, Senior Division, Ahmedpur, District Latur in H.M.P No.19 of 2016. The learned counsel appearing for the

applicant submitted that while filing petition under Section 13-B of the Hindu Marriage Act, the non-applicant obtained her signature by misleading her and contents of affidavit and application had not been read over to her. However, on 18.06.2018, she came to know about passing of consent divorce decree by the learned trial Court and thereafter she filed the present application. Therefore, there is delay of 671 days in filing of appeal, which is *bona-fide* and substantiate. Hence, prayed for condonation of the same.

3. Per contra, the learned counsel appearing for the non-applicant submitted that the grounds set out in the present application are not just and proper, so also the applicant failed to explain the delay in proper manner. Hence, erred for rejection of the application.

4. It is submitted that the present applicant prayed for condonation of delay on the ground that while presenting application under Section 13-B of the Hindu Marriage Act, her signature was obtained by the non-applicant by misleading her and the contents of affidavit were not read over to her and the trial Court passed the impugned judgment and decree on 17.11.2016 and dissolved the

marriage. However, on 18.06.2018, first time, she know about passing of decree of divorce by mutual consent, for which she did not give pre-consent. Therefore, the delay of 671 days caused in filing appeal appears to be *bona-fide* and it is liable to be condoned. Accordingly, I proceed to pass following order.

5. The civil application is allowed. The delay of 671 days caused in lodging the appeal is hereby condoned.

6. Office to register the appeal and place before the Court for further action.

[Y. G. KHOBRADE, J.]

SMS