

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 3277 OF 2019
IN
FIRST APPEAL (ST) NO. 16866 OF 2019**

M/s.Maksells Hardwares

...Applicant

vs.

Saif Ebrahim Merchant

...Respondent

Mr.S. Shamim i/b. Shamim & Co. for Applicant.

Ms.Dashmeet Kaur Thandi i/b. Lex Counsellor for Respondent.

CORAM : ANIL S. KILOR, J.

DATED : 25 JANUARY 2022

P.C. :

Heard learned Counsel for the respective parties.

2. Learned Counsel for the Applicant points out that there is a delay of 19 days in filing first appeal challenging the judgment and decree dated 16 March 2019 passed by the learned Judge, Court Room No.13 in Summary Suit No.9079/1994.

3. It is submitted that the delay caused in filing the appeal is unintentional and caused inadvertently for the reason that the Applicant had gone through the heart surgery and the doctor had advised him complete bed rest.

4. It is, therefore, prayed that the delay caused in filing the first appeal may be condoned.

5. Learned Counsel appearing for the Respondent opposes the application and pray for dismissal of the same.

6. After going through the application and the reason stated in the application, more particularly, the reason given in the application that the Applicant was not well and he was advised to take rest, I am of the opinion that sufficient cause has been shown by the Applicant for condonation of delay. Moreover, no reply has been filed opposing the said application and disputing the fact stated in the application.

7. Accordingly, I pass the following order:

ORDER

(i) The application for condonation of delay is allowed. The delay caused in filing the first appeal is condoned.

(ii) The office is requested to register the first appeal and place the same before the court for admission.

(ANIL S. KILOR, J.)