

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

**CIVIL APPLICATION NO.355 OF 2020  
IN  
FIRST APPEAL (STAMP) NO.22990 OF 2019**

Leitner Shriram Manufacturing  
Ltd.

...Applicant

Versus

Rahul Dyeing and Printing Private  
Ltd. a company

...Respondent

...

Mr. Balwant Salunkhe for the Applicant.

Mr. Balasaheb M. Jadhav for the Respondent.

**CORAM: SMT. ANUJA PRABHUDESSAI, J.**

**DATED : 21<sup>ST</sup> SEPTEMBER, 2022.**

**P. C. :-**

1. By this application, the Applicant has sought to condone the delay of 3 years and 312 days in filing the appeal. The records reveal that the suit was decreed ex-parte on 04/07/2015. The Applicant thereafter filed an application under Order IX Rule 13 of CPC on 31/07/2015. Said application was rejected on 29/10/2018. The learned Judge has observed that the application was not maintainable solely on the ground that the notice of motion for filing written statement was rejected. In view of the dismissal of the said notice of

motion for setting aside exparte decree, the Applicant has filed the

present appeal. The delay, if any in filing the appeal was because the Applicant was pursuing the remedy under Order IX Rule 13 of the CPC before the same Court.

2. Considering the above facts and circumstances, the delay is condoned. The appeal is ordered to be registered after removal of office objections, if any.

3. The application stands disposed of.

**(SMT. ANUJA PRABHUDESSAI, J.)**