

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

**CIVIL APPLICATION NO.880 OF 2017
IN
SECOND APPEAL (STAMP) NO.27562 OF 2016**

Smt. Savita Kashinath Patil

...Applicant

Versus

Ganpat Tukaram Patil

...Respondent

....

Mr. S.P. Thorat for the Applicant.

Mr. Rohit D. Joshi for Respondent No.1.

CORAM : ANIL S. KILOR, J.

DATED: 19th JANUARY, 2022

P.C.:-

1. Heard learned counsel for the respective parties.
2. Mr. Thorat, learned counsel for the Applicant submits that there is a delay of about 6 months in filing the second appeal, challenging the judgment and decree dated 17/12/2015 passed by the learned District Judge, Alibag, Raigad in Regular Civil Appeal No.53 of 2013. He submits that the Applicant has a good case on merits and because of the reasons stated in the application, delay has been caused. He has further argued that the cause shown in the application is satisfactory and sufficient for condonation of delay. For this purpose, he has drawn attention of this Court to the reasons stated in paragraph 4 onwards of this application and

submits that the delay is not intentional but bonafide.

3. Mr. Joshi, learned counsel for the Respondent, by filing the reply has opposed the application and submits that the reasons stated in the application cannot be termed as satisfactory and accordingly prays for dismissal of this application.

4. I have gone through the reasons stated in the application and also the contents of the reply. The reasons stated in the application show that at the first place, the Applicant was not aware of the impugned judgment and decree and the other ground mentioned in the application is that when the Applicant went to her Advocate Shri Mokal, he was hospitalised since 4 to 5 months. Thereafter she came to know that her matter was entrusted to one Advocate Mr. Cheulkar and after contacting the said lawyer, the Applicant got the knowledge about the impugned judgment and decree and thereafter steps were taken to file the Second Appeal. However, there was delay and hence the application for condonation of delay was moved.

5. Thus, after considering the above stated reasons stated in the application and also the nature of controversy involved in the appeal, I am

of the view that in this matter liberal view needs to be adopted.

Accordingly, I pass the following order:-

ORDER

- (i) The application for condonation of delay is allowed subject to cost of Rs.5,000/- to be paid by the Applicant within eight weeks. Failing to deposit the cost within the stipulated period, the application shall stand dismissed;
- (ii) On depositing the cost, the office shall register the Second Appeal and place the same before the Court for admission.

(ANIL S. KILOR, J.)

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