

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

915 CIVIL APPLICATION NO.11399 OF 2021
IN SAST/15320/2021

RAVINDRA VISHWANATH MAGAR
VERSUS
SINDHUBAI RAVINDRA MAGAR

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Advocate for Applicant : Adv. Rahil Kazi h/f Mr. P. R.
Katneshwarkar.

Advocate for Respondent : Mr. P. U. Gujrathi h/f Mr. V. P.
Latange.

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CORAM : S. G. MEHARE, J.
DATE : 23.08.2023

PER COURT :-

1. Heard the learned counsel for the applicant and learned counsel for the respondent.
2. Learned counsel for the applicant would submit that the applicant is suffering from paralysis. He has been retired so his income has been reduced. He has to spent more money on his paralysis medication. He did not know about the impugned order passed against him. However, when he received the notice of Darkhast, he took action and presented this appeal with the delay condonation application.

3. Learned counsel for the respondent would submit that the reasons assigned for delay condonation are not convincing, proper and correct. He was well aware of the proceedings filed against him. He had contested the petitions on merits, but he failed to comply with the orders passed in execution proceeding. He has preferred this second appeal with civil application, after receipt of the notice of the executing court. He would further state that the applicant is not bonafide. He had obtained a stay order from this Court on 10.01.2022 on the condition to deposit 75 % of the arrears. However, he did not deposit. Hence, the execution of the impugned judgment and decree was automatically restored. He has no good ground for condonation of delay.

4. The Court also heard parties on the issues involved in the case. There were number of litigations between them. Hence, to find out the substantial question of law, lenient view may be taken. Hence, the following order :

ORDER

- (i) Civil Application is allowed.
- (ii) Delay caused in preferring the second appeal stands condoned.

- (iii) Second Appeal be registered accordingly.
- (iv) Issue notice to the respondent/s.
- (v) Learned counsel Mr. Latange waives service of notice for the respondent.
- (vi) List the matter in due course.

(S. G. MEHARE, J.)

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vmk/-