

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

**INTERIM APPLICATION NO. 1233 OF 2023
IN
APPEAL FROM ORDER (ST) NO. 3508 OF 2023**

Mallinath Kadappa Hanji	...Applicant
Versus	
Jyosthna Mallinath Hanji	...Respondent

Mr. Prashant Raut, for the Applicant.
Mr. Anoop Patil, for the Respondent.

**CORAM: N. J. JAMADAR, J.
DATED : 21st JUNE, 2023**

PC:-

1. Heard the learned Counsel for the parties.
2. This application is preferred to condone the delay in preferring an appeal against the judgment and order dated 13th July, 2021 passed by the learned Ad-hoc District Judge, Gadhinglaj, in Regular Civil Appeal No.29 of 2020, whereby the appeal came to be partly allowed and the HMP No.191 of 2019 remanded back to the trial court for decision in accordance with law after setting aside the judgment and decree passed therein dated 6th November, 2019.
3. Initially, the appellant had preferred a second appeal against the said judgment and order. Since an order of remand

is appealable under Order 43 of the Code of Civil Procedure, 1908, the second appeal came to be withdrawn with liberty to file an appropriate proceedings. Assigning the said cause, the applicant has preferred this application seeking condonation of delay.

4. The learned Counsel for the respondent resisted the application.

5. The facts are self-evident. The reasons assigned by the applicant for the delay appear to be justifiable, as the second appeal was preferred on the advice of the Advocate. In any event, the provisions contained in Section 14 of the Limitation Act come into play.

6. Hence, to advance the cause of substantive justice, the delay in preferring the appeal deserves to be condoned.

7. Thus, the application stands allowed.

8. The delay in preferring the appeal stands condoned.

9. Appeal be registered and listed for admission on 19th July, 2023.

10. Ad-interim protection, granted by this Court, shall continue to operate till next date.

[N. J. JAMADAR, J.]