

Santosh

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

**INTERIM APPLICATION NO. 2095 OF 2023
IN
APPEAL FROM ORDER (ST) NO. 2977 OF 2022**

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Deven Yogesh Kanani ...Applicant
In the matter between
Deven Yogesh Kanani ...Appellant
Versus
Nirupama Yogesh Kanani & ors. ...Respondents

Ms. Bhagyashree Bhalchandra Patwardhan, i/b Jyoti
Panhicker, for the Applicant/Appellant.
Ms. Nishtha Malik, i/b NAS Legal Advocates, for Defendant
Nos.1 to 4.
Ms. Smita Tondwalkar, for the MCGM – Respondent No.5.

CORAM: N. J. JAMADAR, J.

DATED : 19th JULY, 2023

PC:-

1. Heard the learned Counsel for the applicant – appellant.
2. This application is preferred seeking condonation of delay of 89 days in preferring the appeal against an order dated 2nd June, 2022 passed in Notice of Motion No.1472 of 2022 in LC Suit No.1052 of 2022, whereby the Notice of Motion came to be partly allowed permitting the applicant – plaintiff to carry out only tenantable repairs of the suit premises at his cost. The applicant has averred that as he is working as a Pilot, the appeal could not be preferred within the stipulated period of

limitation on account of couple of days off between two flights scheduled and also due to filing of Notice of Motion No.1806 of 2022 seeking cooperation of the respondents – defendants.

3. Respondent Nos.1 to 4 have resisted the application by filing an affidavit-in-reply and the sufficiency of the cause assigned by the applicant is put in contest.

4. Delay is not inordinate. It is trite an application for condonation of delay should receive liberal consideration so as to advance the cause of substantive justice. The applicant has ascribed certain reasons for delay in preferring the appeal. Reasons do not appear to be unsustainable. I am, therefore, persuaded to allow the application and condone the delay in preferring the appeal.

5. Application stands allowed.

6. The delay in preferring appeal stands condoned.

7. Appeal be listed for admission on 30th August, 2023.

[N. J. JAMADAR, J.]