



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

906 CIVIL APPLICATION NO. 479 OF 2023  
IN SAST/92/2023

BISMILLABE NASIBKHA PATHAN  
VERSUS  
SHAIKH BABAMIYA SHAIKH AHEMAD

...

Mr. Solanke Krushna S., Advocate for Applicant  
Mr. Sanjay D. Hiwrekar, Advocate for Respondent

CORAM : Y. G. KHOBRAGADE, J.  
DATE : 24th April, 2024

**ORDER:**

1. Heard Mr. Solanke, the learned Advocate for the applicant and Mr. Hiwrekar, the learned Advocate for the respondent.

2. By the present application, the applicant prayed for condonation of delay of 193 days caused while filing the appeal against the judgment and decree dated 16.03.2022 passed by the learned First Appellate court in RCA No. 144 of 2021 (Old RCA No.166/2018) arising out of judgment and decree dated 07.08.2018 passed by the learned Civil Judge (J.D.), Ghansavangi in RCS No. 06 of 2015.

3. The learned counsel for the applicant, in vehemence, submits that on 16.03.2022, the learned First Appellate Court decided the appeal, however, the applicant submitted an application for grant of certified copy on 24.08.2022. Thereafter, on 30.08.2022 certified copy the impugned judgment has been received, however, since the applicant was facing financial crises, the remaining certified copies of memo of

appeal and judgment and decree were received on 09.12.2022, therefore the delay of 193 days caused. Further the applicant is old aged agriculturist lady and due to financial crises, she did not file the appeal within limitation, hence, the delay has been caused.

4. Per contra, the learned counsel appearing for the non-applicant strongly resisted the application on the ground that the delay has not been sufficiently explained and no substantial cause has been shown, hence, prayed for rejection of the application.

5. It is needless to say that the applicant has not offered any explanation for the delay from 13.03.2022 till 23.08.2022, however, considering the cause assigned, the delay of 193 days is hereby condoned subject to payment of cost of Rs.3000/- payable by the applicant to the non applicant within a period of two weeks from today. The payment of cost is prerequisite condition for condonation of delay.

6. It is made clear that if the applicant fails to comply the order of cost within stipulated time, in that even the application shall stand rejected.

7. After the order of cost is complied with, Office to register the appeal place the same before the Court on 08.05.2024 for further action.

**( Y. G. KHOBRAGADE, J. )**

JPChavan