



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

937 CIVIL APPLICATION NO. 452 OF 2024 IN SAST/406/2024

Dyanoba So Madhav Potbhare

VERSUS

Namdev So Dhondiram Rathod

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Advocate for Applicant : Mr. R.R. Deshmukh h/f R.B.
Deshmukh

Advocate for Respondents : Mr. S.C. Swami

CORAM : S. G. CHAPALGAONKAR, J.

Dated : December 10, 2024

PER COURT :-

1. By this application, prayer is made to condone the delay of 1317 days caused in filing the second appeal.

2. It appears that District Judge Latur allowed the RCA No.128/2017 vide order dated 14.2.2020. Immediately, thereafter, Covid situation persisted. It is contention of the applicant that applicant is old aged person and he was advised not to expose during Covid situation. Further, in view of order of the Supreme Court, limitation period was freezed from 15.3.2020 to 28.2.2022. It is further contended that the applicant inquired to file the appeal with his advocate. He was given estimate of expenditure to Rs.60,000/-. He could not

arrange it within stipulated period. Consequently, overall there is delay of 1317 days, which is not intentional.

3. Respondent filed affidavit-in-reply and opposed the prayer to condone the delay on the ground that even after March, 2022 applicant failed to take steps for filing appeal till December, 2024. Delay of about 18 months is absolutely unexplained. Therefore, the application deserves to be rejected.

4. Having considered the submissions advanced, apparently, judgment was delivered just when Covid situation persisted in the country. As per the order of the Supreme Court, applicant need not explain delay till 28.2.2022 as limitation was freezed. However, applicant explains that he was old aged person depending upon agriculture income. He suffered great financial loss due to Covid period and he was not in a position to arrange expenses of Rs.60,000/-. Explanation offered by the applicant appears to be probable. Parties are litigating over civil dispute in respect of the agriculture property. There is nothing on record to show that applicant has derived disadvantage by making the delay.

Consequently, the application deserves to be allowed. Hence, the order.

O R D E R

- i. Civil application is allowed.
- ii. Delay of 1317 days caused in filing the second appeal is condoned.
- iii. Civil application stands **disposed off**.
- iv. Appeal be registered.

(S. G. CHAPALGAONKAR, J.)

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