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

**CIVIL APPLICATION NO. 4107 OF 2023
IN SAST/8108/2023**

Dattu Gajaba Navali

....Applicant

VERSUS

Bhanudas Ramji Navali Died Through Lrs Dilip Bhanudas Navali

.....Respondent

.....

Advocate for Applicant : Mr. Tripathi Manish Purushottam

Advocate for Respondents : Mr. A.N. Nagargoje.

.....

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 6TH DECEMBER, 2024.

P.C. :-

1. Heard Mr. Manish Tripathi, learned advocate for the applicants and Mr. Nagargoje for respondents.

2. Mr. Tripathi would submit that the first appellate court passed decree dated 3.2.2020, which is subject matter of appeal. Immediately after passing the decree, the COVID pandemic erupted, which prevented the applicant from taking steps for filing the present appeal. Even thereafter, due to communication gap between the applicant and their advocate, they were not aware about the judgment that has been passed by first appellate court.

3. Although the office has reckoned the delay of 1040 days, it is in view of the directions of the Supreme Court in *Suo Motu Writ Petition No. 3 of 2020* the period from 15.3.2020 to 1.3.2022 will have to be excluded from calculation of delay. Mr. Tripathi would submit that for the remaining part of delay, there is sufficient explanation.

4. Mr. Nagargoje, learned advocate appearing for respondent submits that the explanation tendered would not constitute sufficient cause within the meaning of Section 5 of the Limitation Act.

5. Having considered the submissions advanced, it can be observed that the impugned judgment and decree has been passed immediately before the COVID 2019 pandemic that existed all over the country. Possibility that for the same reason, there was communication gap between the applicant and their advocate can not be ruled out.

6. Contents of the application are not controverted by learned advocate for respondent. Considering nature of dispute, it would be appropriate to allow the application. The application is allowed in terms of prayer clause (B)

Appeal be registered subject to removal office objections.

7. Post the matter for further consideration on 17.1.2025.

[S.G. CHAPALGAONKAR, J]

grt/-