



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

**CIVIL APPLICATION NO. 8121 OF 2022
IN SAST/20633/2021**

**RAJENDRA GANGADHAR YELAM
VERSUS
SHAILA RAMANLAL DUDHEDIYA**

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Mr. B. G. Sagade, Advocate for applicant

Mr. Y. R. Shinde, Advocate h/f Mr. R. R. Karpe, Advocate for
respondent

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CORAM : Y. G. KHOBRAGADE, J.

DATE : 12 MARCH 2024

PER COURT :-

1. Heard the learned Counsel appearing for the
respective parties at length.

2. The application for condonation of delay of 877 days
caused in lodging the appeal against the judgment and decree
dated 13.12.2018 passed by the first appellate Court in R.C.A.
No.25 of 2017 arising out of the judgment and decree dated
04.05.2017 passed in R.C.S. No.271 of 2012 passed by the learned
Civil Judge Senior Division, Shrirampur.

3. According to the applicant, due to lack of communication from his lawyer, he could not approach this Court within limitation. Therefore, delay of 877 days caused while lodging the appeal, which is bona-fide and substantiate.

4. Per contra, the learned Counsel appearing for the non applicant strongly opposed the application on the ground that the applicant failed to explain the delay properly and no bona-fide and substantial grounds set out to condone the delay. Hence, prayed for rejection of the application.

5. The learned Counsel appearing for the applicant submits that in similar matter, this Court has passed the order on 16.01.2014 in Civil Application No.8119 of 2022 in Second Appeal Stamp Mp,20634 of 2021, wherein the delay of 877 days while lodging the appeal has been condoned. Since the similar ground has been set out in this civil application, therefore, to my mind, considering the parity, the delay of 877 days caused in lodging the appeal is liable to be condoned. However, at the same time, due to negligence on the part of the applicant, the non-applicant has to suffer. Therefore, taking into consideration of equity, it would be just and proper to

compensate the non-applicant with the appropriate cost. In view of the above, I proceed to pass the following order:-

ORDER

- (i) The delay of 877 days caused in lodging the appeal is hereby condoned subject to payment of cost of Rs.5,000/- payable by the applicant to the non applicant within a period of one week from today.
- (ii) After the condition of cost is complied, the appeal be placed on 21.03.2024 for admission.
- (iii) The civil application stands disposed of.

[Y. G. KHOBRAGADE, J.]

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