



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9336 OF 2022

Kedarnath Fakirchand Totala Through Power Of Attorney Holder Yogesh
Kedarnath Totala

VERSUS

Sandeep Ramji Chavan And Others

Mr. R. F. Totala h/f Mr. R. J. Malu, Advocate for the petitioner
Smt. Kavita R. Jamdhade, AGP for the respondent/State
Mr. R. D. Biradar, Advocate for respondent nos.1 to 7.

CORAM : R. M. JOSHI, J.

DATE : 12th NOVEMBER, 2024

PER COURT :-

1. This petition takes exception to the order dated 23/03/2022 whereby the application filed by the petitioner for condonation of delay of 40 days in Misc. Civil Appeal No. 270/2016 against the order passed below Exhibit 5 dated 30/04/2016 in R.C.S. No. 832/2015 came to be rejected.

2. Learned counsel for the petitioner submits that the Appellate Court has committed error in not condoning delay of 40 days and without there being any observations that the delay is malafide. Learned counsel for the respondent recorded his objection for condonation of delay.

3. Perusal of the record indicates that the petitioner has filed

application for condonation of delay contending that time was required for obtainment of certified copy as well as the petitioner is old aged person and that he was bed ridden at the relevant time. The learned Appellate Court has rejected application on the ground that the contention of the petitioner is not probable. There is no observation made by the Appellate Court as to the in malafide intention on the part of the petitioner is not preferring the appeal in time. In in case, delay is of 40 days, hence, this Court finds it appropriate to condone the same. As a result of this, petition stands allowed. Misc. Civil Appeal No. 270/2016 stands allowed. Appeal be registered. The Appellate Court is directed to decide the appeal expeditiously.

(R. M. JOSHI, J.)

ssp