



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

**CIVIL APPLICATION NO. 14746 OF 2023
IN SAST/37452/2023**

**JANARDHAN PANDHARI PATIL
VERSUS
RAKESH GOPICHAND LADDHA**

Mr. Ameya Sabnis, Advocate h/f Mr. V. P. Patil, Advocate for the applicant
Mr. V. J. Dixit, Advocate i/f Mr. D. D. Pande, Senior Advocate for the
respondent

**CORAM : R. M. JOSHI, J.
DATE : 11th JANUARY, 2024**

P.C. :-

1. This application is for condonation of delay of 198 days in preferring appeal against the judgment and decree passed by the First Appellate Court in Regular Civil Appeal No. 48/2016 dated 17/10/2022 whereby the judgment and decree of dismissal of Regular Civil Suit No. 32/2012 came to be reversed.
2. The appellant in this application contends that on account of financial crises as well as for want of the certified copies appeal could not be filed in time. Hence he seeks condonation of delay caused in preferring the appeal.
3. Respondent appeared and filed affidavit-in-reply opposing the

application. Learned senior counsel for the respondent submits that no particulars are given by the applicant indicating the justified reason for the condonation of delay. According to him the statements made in the application are not sufficient to condone the delay. He further claims that respondent has already deposited entire amount of consideration in the Court and irreparable loss is likely to be caused to him if the delay is condoned. To support his submission he placed reliance the judgment of the Hon'ble Apex Court in case of ***Majji Sannemma alias Sanyasirao Versus Reddy Sridevi and Others, 2021 SCC OnLine SC 1260***. He claims that the applicant had cleared the dues to the tune of Rs.25 lakhs which indicates that his financial condition is sound.

4. This is not the case wherein there is no sufficient reason mentioned by the appellant for condonation of delay. In the instant case the delay caused in filing of the appeal is 198 days. The applicant claims financial crises as well as the administrative difficulty in getting certified copy of the impugned judgment and decree. In case of ***Majji Sannemma alias Sanyasirao*** (cited supra) the Hon'ble Apex Court has mainly considered the aspect of negligence, inaction or lack of bona fides on the part of attributable to the parties which could be a grounds for consideration for condonation of delay or not. As far as present application is concerned, this Court finds no malafides on the part of the applicant in not

approaching the Court in time. Except for the fact that respondent claims that he has deposited the amount of consideration, nothing is shown that on account of the delay irreparable loss has been caused to the respondent or that he is placed in disadvantages position which can not be reversed.

5. It is pertinent to note that the appellant/applicant has succeeded before the Trial Court thus at least there is finding recorded in his favour by one Court. Having regard to the facts and circumstances of the case, this Court find it to be a fit case for condonation fo delay subject of deposit of cost of Rs.2000/-. Cost is payable to the respondent. Delay stands condoned. Cost be paid within one week. If cost is not paid, this order shall stand recalled and application shall stand dismissed without further reference to this Court. On payment/deposit of the cost, appeal be registered.

(R. M. JOSHI, J.)

ssp