

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

Appeal from Order No.568 of 2023

Chagan Rajaram Mahadik

Age:75, Residing at B/101,

Akshata Apartment Chandan

Wadi, Almeida Road,

Thane (West), Thane-400602 Appellant.

Vs.

Vijay Kashinath Tetambe

Age : 67, Residing at

Shivadip at Markandi, Chiplun

District-Ratnagiri, Pin code-415605 ... Respondent.

Mr Vidyadhar Raut for appellant.

Mr Rajesh Sahani i/by Vijayprakash Yadav for respondent.

**Coram: R. N. Laddha, J.
Date : 23 February 2024.**

P.C. :-

Heard learned Counsel for the parties.

2. The appellant has preferred this appeal for setting aside order of dismissal of Regular Civil Appeal No.29 of 2020, for default on 30.10.2021, passed by the learned District Judge, Chiplun on 28.03.2023, observing therein that the application

for restoring the appeal should have been filed within 30 days from the date of dismissal, under Article 122 of the Limitation Act. The restoration application was filed before the District Judge, Chiplun on 28.03.2023 i.e. after 1 year 3 months and 28 days. The said application was not accompanied with the delay condonation application. The applicant was informed by the learned District Court that proceeding cannot be registered unless it is accompanied with delay condonation application showing sufficient cause. Despite this, applicant has not preferred any delay condonation application. Resultantly, the office of District Judge has taken objection about limitation. Since the application for restoration was not accompanied with delay condonation application, the learned District Judge dismissed the same under Section 3 of the Limitation Act. There appears no infirmity in the order and same stands confirmed. In view of this, the appeal from order stands dismissed.

[R. N. Laddha, J.]