

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 3086 OF 2020
IN
FIRST APPEAL (ST) NO. 4483 OF 2020**

Mr. Dattaram Vishnu Khade

... Appellant/Applicant

Vs.

Mrs. Manjula Balu Gaikwad

... Respondent

Adv. Rahul Kulkarni, for the Appellant/Applicant.

Adv. Swati Sawant, a/w Adv. A. A. Mane, for the Respondent.

CORAM : KISHORE C. SANT, J.

DATE : 27th March, 2024

P.C.:-

1. Heard. This Application is for condonation of delay of 1 year and 63 days caused in filing the First Appeal.

2. It is the case of the Applicant that the Judgment and Order was passed on 03.12.2018, in Summary Suit No. 312 of 2018. The Appellant at the relevant time was in jail in a criminal matter. It is for this reason the Applicant could not get knowledge of passing of the Order. He thus submits that the delay is not intentional but is for the reason stated in the Application.

3. The learned Advocate for the Respondents vehemently opposes the Application stating that there is no proper explanation for delay. The applicant was released from the jail on 06.06.2019, and the Application is filed on 01.10.2019. There is no explanation given for the period from

06.06.2019, till filing this Application she opposes the Application and prays for rejection.

4. The fact that the Applicant was in jail since 06.06.2019, is not disputed. It is also not disputed that from the date of the passing of the Judgment and Order the Applicant was in jail. The decree is passed against the Applicant directing him to pay an amount of Rs. 22,00,000/-with interest.

5. This Court finds a substance in the argument of the learned Advocate for the Respondent that though the Plaintiff has obtained into moreover the amount till now. In view of this, it would be in the interest of justice to allow the Application with cost. Hence the following Order:-

ORDER

a) The delay of 1 year and 63 days stands condoned.

b) The Application is allowed subject to cost of Rs. 25,000/- to be deposited within 2 weeks with the office of this Court. The Respondent shall be entitled to withdraw the amount of cost without requiring any formal Application.

6. The Interim Application stands disposed of.

(KISHORE C. SANT, J.)