

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1203 OF 2014
IN
SECOND APPEAL (ST) NO.13416 OF 2024

Shri. Tukaram Ranu Hargude

...Applicant-
Appellant.

Versus

1) Shri. Ankush Rambhau Hargude Since Deceased
Through Legal Heirs And Ors.

...Respondent.

*Mr. Ranjit Thorat, Senior Advocate i/b Mr. Sandeep S. Salunkhe for the
Appellant and applicant in IAS.*

Mr. Y. G. Thorat i/b Mr. A. B. Tajane for Respondent Nos.1 to 5

Coram : Sharmila U. Deshmukh, J.

Date : April 23, 2024.

P. C. :

1. Heard.

2. By this Application the applicant seeks condonation of delay of 226 days caused in preferring the present appeal. Second appeal is preferred against the judgment of the First appellate Court dated 24th June 2013 and there is delay of 226 days caused in preferring second appeal.

3. Learned counsel appearing for applicant submits that before the First Appellate Court the applicant has engaged advocate to represent his case. However applicant was not informed about details of the appeal by his advocate and was not informed that appeal was allowed. He would further submit that when the advocate informed the applicant about the judgment of the First Appellate Court he has asked for copies of the appeal. However did not receive the same from his advocate and therefore ultimately on 4th March 2014 certified copy was applied for and on 7th March 2014 certified copies were received and thereafter the present appeal along with application for condonation of delay was filed.

4. *Per contra*, learned counsel appearing for respondent No.2 opposes the application. He would submit that the explanation tendered is bereft of any details and vague statements are made laying the blame on the advocate. He would further submit that no specific dates have been mentioned and there are no pleadings as to when applicant came to know about the decision of the appeal. He submits that vague statements cannot be construed as sufficient reason for condonation of delay.

5. It is well settled that usually Courts will adopt liberal approach

while considering an Application under Section 5 of the Limitation Act 1963 and unless it is shown that litigant has been grossly negligent in pursuing the proceedings, the Courts usually lean towards condoning the delay. It is also well settled that it is not necessary that each and every days delay is to be explained and what is required to be considered is whether explanation tendered is sufficient so as to exercise discretion for condonation of delay. In the present case, applicant who is the plaintiff have succeeded before the Trial Court . As against which respondents have preferred an appeal. Having diligently pursued the proceedings before the Trial Court and obtaining decree in his favour, it is improbable that at the appellate stage when the findings of the Trial Court is reversed no timely steps would be taken by the plaintiff. The applicant has specifically pleaded that he was not informed about the adverse order passed by the First Appellate Court and was not even furnished with the copies of the appeal as a result of which the applicant had applied for the same on 4th March 2014 and received the same on 7th March 2014. There is no reason to disbelieve the reason which is set out particularly considering that the applicant is agriculturist and can be presumed to be unaware of the legal procedure. What is expected of the litigant is to engage a lawyer to represent him in the Court proceedings. It is expected of the advocate that the applicant will be informed of the

order passed by the First Appellate Court. It is specifically pleaded that no information was received and thereafter when the applicant came to know about the adverse order, copies were asked which were not given. As such in my opinion, there is sufficient explanation which has been tendered for condonation of delay.

6. Consequently delay of 226 days is condoned. Civil Application is allowed.

[Sharmila U. Deshmukh, J.]