

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 1605 OF 2021

IN

FAMILY COURT APPEAL (ST) NO. 12398 OF 2021

Arun Prabhakar Gaonkar

...Applicant/
Appellant

Versus

Aarati Arun Gaonkar

...Respondent

Mr. Nitin Vhatkar, i/b Gautam Hiranandani, Advocates for the
Applicant/Appellant.

CORAM : B. P. COLABAWALLA &
SOMASEKHAR SUNDARESAN, JJ.

DATE : JANUARY 12, 2024

PC :

1. The above Interim Application is filed seeking a condonation of delay of 4 years 287 days in filing the above Family Court Appeal. The only explanation for the delay is set out in paragraphs 6 to 10 and which are reproduced hereunder:

“6. The Applicant states that, due to his matrimonial problem his father suffered heart ailment and had to under go by pass surgery in the month of July, 2015. The Appellants father

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was Father was required to be hospitalised for a month or two. Hereto annexed and marked Exhibit 1 collectively are copies of discharge papers of the year 2015 from the Jaslok Hospital together with papers of diagnostic test undergone by the Applicants Father evidencing the fact that the Applicants Father was hospitalised and had to undergo various medical tests. The aforesaid circumstances required the Applicant to give his Father his full attention. Further even after the conclusion of the said Matrimonial Petition the Applicants Father required constant medical attention which occupied him fully.

7. The Applicant States that thereafter his Father needed constant medical attention which forced him to constantly see to his Fathers needs leaving him little time for anything else. Hereto annexed and marked Exhibit 2 Collectively are papers from the Port Trust Hospital showing evidencing the fact that the Applicants Father needed medical treatment over the years i.e. from 2015 to 2020 and the same is continuing till date.

8. During this period the Applicants Mother also needed medical treatment for knee pain. Hereto annexed and marked Exhibit 3 is a medical paper from the Port Trust Hospital showing the her medical condition.

9. The Applicant states he was working for "Bharati Shipyard Ltd." As an engineer. However the said company closed down in the year 2019 rendering him unemployed. This led to a financial crunch making it difficult for him to get legal assistance. He remained unemployed till March 2020. It was only then he finally got a job. The Applicant crave leave to

refer to and rely upon the documents, when produced.

10. The Applicant states on top of the above circumstances the present covid pandemic caused a lockdown in the city. This circumstance also made it difficult for him to approach the court of law.”

2. On carefully going through the Interim Application as well as the annexures thereto, we find absolutely no justification for the enormous delay of 4 years 287 days. Sufficient cause has to be made out before the Court condones the delay. In the facts of the present case, we find that no sufficient cause is made out whatsoever. In these circumstances, the above Interim Application seeking a condonation of delay is hereby dismissed. Consequently, the above Appeal is also dismissed. However, there shall be no order as to costs.

3. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[SOMASEKHAR SUNDARESAN, J.]

[B. P. COLABAWALLA, J.]