

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

**INTERIM APPLICATION NO.30355 OF 2022
IN
SECOND APPEAL (STAMP) NO.28627 OF 2022**

Shobha Suresh Devkar

....Appellant/Applicant

V/S

Vimal Jagdas Hadulkar & Ors.

....Respondents

Mr. Mahesh M. Phalke for the Appellant/Applicant.

Mr. Drupad S. Patil for Respondents.

CORAM: SANDEEP V. MARNE, J.

DATE : MARCH 1, 2024.

P.C.:

1 The Interim Application is filed seeking condonation of delay of 3 years and 28 days in filing the Second Appeal. Mr. Patil, the learned Counsel appearing for the Respondents opposes the Application.

2 No doubt the delay in filing the Appeal is slightly inordinate. The impugned decree of the First Appellate Court was passed on 3 July 2019 and the Appellant was apparently armed with certified copy thereof by 20 November 2019. However there are two factors in favour of the Appellant. Firstly on account of Covid-19 pandemic, functioning of the Courts was crippled during 15 March 2020 to 28 February 2022. Though thus entire period cannot be excluded on account of the fact that the period of limitation for filing the Appeal had expired prior to 15 March 2020, the Appellant will have to be granted some benefit on account of the fact that she was unable to take steps to challenge the impugned decree of the First Appellate Court because of disturbance caused due to Covid-19 pandemic. The Appellant has also relied upon certificate of Doctor dated 10 November 2022 certifying that she suffered from hand fracture, rheumatoid arthritis, hypertension and high blood pressure. This would provide some explanation for Appellant's inability to file the Appeal after the Court working was restored from 1 March 2022. Considering the above factors, I am of the view that the delay in filing the present Appeal deserves to be condoned. However at the same time it must be observed that the Appellant was negligent and did not file the Appeal immediately after resumption of Court function from 1 March 2022. Some costs are therefore required to be awarded in favour of the Respondents while condoning the delay in filing the Appeal.

3 Accordingly the Application for condonation of delay is allowed. Delay in filing the Appeal is condoned. The Appellant to pay Respondents costs of Rs.10,000/- within a period of four weeks from today.

4 The Interim Application is accordingly disposed of.

5 List the Second Appeal for admission on 4 April 2024.

(SANDEEP V. MARNE, J.)

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