

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

**INTERIM APPLICATION NO.1508 OF 2024
IN
FIRST APPEAL STAMP NO.35027 OF 2023**

Ramesh Kumar S/o Shankarlal Sirsalewala ..Applicant

Versus

Chanshyam S/o Shankarlal Sirsalewala ..Respondent

Mr. Amit G. Dubey i/by A. M. Saraogi, for the Applicant/Appellant.
Mr. Ashutosh Shukla, for the Respondent/State.

CORAM : KISHORE C. SANT, J.

DATE : 23rd FEBRUARY, 2024

PC.

1. Heard the parties.

2. This Application is filed seeking condonation of delay of 96 days caused in filing First Appeal. It is stated in the Application that initially the Applicant had preferred Writ Petition No.14007 of 2023 challenging the order impugned in this Appeal, however, the Writ Petition was not maintainable and same was withdrawn with liberty to file First Appeal No.07.11.2023. It is stated that for this reason, delay of 96 days is caused. Learned advocate submits that sufficient cause is shown to condone the delay and prays for allowing the Application.

3. Learned advocate for the Respondent opposes the Application stating that the Writ Petition was withdrawn on 07.11.2023 and this Application is filed on 01.12.2023. There is no explanation for this period.

4. Considering the fact that earlier Writ Petition was filed under misconception and thereafter same was withdrawn on realizing that the Appeal is maintainable. Delay is also only of 96 days. This Court finds that in the interest of justice, the said delay deserves to be condoned. Hence, the following order :-

- i) The Application is allowed.
- ii) Delay of 96 days caused in filing First Appeal stands condoned.

5. Office is directed to register the First Appeal.

6. After registration, the Applicant is at liberty move the same after admission.

[KISHORE C. SANT, J.]