

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

**INTERIM APPLICATION NO.1935 OF 2024
IN
FIRST APPEAL STAMP NO.35135 OF 2023**

Ramesh Agarwal

Since deceased through legal heirs

Manju Agarwal & Ors.

..Applicants/Appellants

Versus

Ramesh Girdharilal Bajaj & Anr.

..Respondents

Mr. Deepak Chitnis a/w Mangesh Parte, Abhilesh Chitre & Rehan
Ghoja i/by Sonali Dalvi, for the Applicants/Appellants.

Mr. Kaustubh Patil, for the Respondents.

CORAM : KISHORE C. SANT, J.

DATE : 1st MARCH, 2024

PC.

1. Heard learned advocates for the Applicants/Appellants
and Respondents.

2. This Application is filed seeking condonation of delay of
68 days caused in filing First Appeal challenging judgment and
decree of City Civil Court. The reason assigned is that the impugned
judgment and order was passed on 03.02.2023. The certified copy
was made available only on 01.03.2023. Thereafter Applicants tried
to contact learned advocate for collecting papers, however, the said
advocate did not hand over papers for long time. By that time,

Summer Vacation started. From the office of Applicants, Application was submitted online on 12.05.2022, however, for want of knowledge of proper procedure in the Summer Vacation, civil proceedings can be filed only by seeking leave of the Court. Appeal was not properly filed by seeking leave. The Appeal therefore was not accepted. It is thereafter Appeal came to be filed, but same was not accepted in the month of May. It is thus submitted that the reason for delay is genuine and for bonafide reason. It is prayed to condone the delay.

3. Learned advocate for the Respondents vehemently opposed the Application. He submits that when certified copy was obtained on 01.03.2023, as per the Bombay City Civil Courts Act, Section 16, limitation is only of 30 days and the Appeal ought to have been filed before 01.04.2023. There is no explanation for the period from 01.04.2023 till 12.05.2023. He submits that thus for want of sufficient cause shown on record, delay cannot be condoned. In the alternate, he prays to allow the Application with heavy cost.

4. Considering the above reasons assigned, this Court finds that there was attempt made to file Appeal on 12.05.2023. It was later on revealed that the Appeal could not be registered for want of certain procedure in the Vacation. This Court finds that sufficient cause is shown for condonation of delay.

5. The Application is therefore allowed. Delay of 68 days stands condoned.
6. Office to register First Appeal.
7. First Appeal be placed on board dated 5th April, 2024.
8. Parties are put to notice that if time permits, this Court may take up First Appeal for final disposal.
9. The Application stands disposed of.

[KISHORE C. SANT, J.]