

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (ST.) NO.33589 OF 2023

Mainuddin Usman Mulani @ Shaikh

.. Petitioner

Versus

Uttam Santram Vankalas and Ors.

.. Respondents

-
- Mr. Sharad T. Bhosale, Advocate for Petitioner.
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CORAM : MILIND N. JADHAV, J.

DATE : AUGUST 06, 2024

P.C.:

- 1.** Mentioned. Not on Board. Taken on Board.
- 2.** Heard Mr. Bhosale, learned Advocate for Petitioner.
- 3.** Perused the praecipe dated 06.08.2024 and the Writ Petition.
- 4.** By virtue of the impugned order dated 20.09.2023, Civil Miscellaneous Application No.1 of 2022 filed by Respondents before the District Court seeking condonation of delay of four year in filing the Appeal stands allowed.
- 5.** Mr. Bhosale appears for the contesting Defendant No.1A in the original suit proceedings who is Petitioner before me. He is aggrieved with the filing of Appeal by Defendant No.2 after lapse of four years since according to him the suit property originally belongs to Defendant No.1. Filing of Appeal is a valuable right and such right of Defendant No.2 cannot be ousted even if there is delay if the said delay

stands explained.

6. In the present case, Defendant No.2 has explained that there was a medical emergency for a period of six months in his family. Even otherwise the said delay of four years will stand substantially reduced in view of the extant order of Supreme Court in *Suo Motu* Writ Petition No.3 of 2020 passed for arresting the period of limitation during the COVID-19 Pandemic period from 20.03.2020 till the date of filing of the Application for seeking condonation of delay. Thus the actual delay will be from the date of decree upto 20.03.2020 except the appeal period. Considering the above, there would be delay of approximately two years in filing the Appeal.

7. In view of the above, I am not inclined to interfere with the order passed by the District Court in condoning the delay. The order dated 20.09.2023 is sustained. In the facts of the present case, I direct the learned District Court to decide the pending Regular Civil Appeal within a period of three months from today after hearing both the sides. Both parties are directed to co-operate with the learned Appellate Court. Appellate Court is directed not to give adjournments to the parties and to give adjournments only if they are utmost necessary due to any emergency or exigency.

8. With the above directions, Writ Petition is disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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