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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL (ST) NO. 22268 OF 2024
WITH
INTERIM APPLICATION NO. 13972 OF 2024
AND
INTERIM APPLICATION NO. 13973 OF 2024

Uttam Vishnu Kumbhar ... Appellant /Applicant

Vs.

Ichalkaranji Municipal Council, ... Respondents

Ichalkaranji through is

Chief Officer and Others

Mr. Prashant Kulkarni for the Appellant.

CORAM : GAURI GODSE, J.

DATE : 9th DECEMBER 2024

ORDER :

Interim Application No. 13972 of 2024

1. This application is for condonation of delay of four years and nine days in filing the second appeal. Learned counsel for the applicant submits that the application was filed before the District Court for rehearing of the appeal by filing application under Order XLI Rule 21 of the Civil Procedure Code, 1908 ("CPC"). He submits that the said application was rejected on 16th August 2023 as

thereafter the appellant had filed appeal from order. However, since the impugned decree is appealable the appeal from order was withdrawn and the second appeal is filed. Learned counsel for the appellant therefore submits that the appellant has sufficient grounds for condonation of delay.

2. On merits of the second appeal, learned counsel for the appellant submits that even after expiry of the lease in favour of the appellant, the appellant is paying rent to the Municipal Council and therefore the appellant would be entitled to seek protection of possession to the extent that the appellant should not be dispossessed without following the due process of law.

3. Issue notice to respondent returnable on 3rd March 2025.

4. In addition to court notice, learned counsel for the applicant to serve the respondents by private service and file service affidavit before the next date.

[GAURI GODSE, J.]