



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

906 CRA NO. 236 OF 2025
WITH
CIVIL APPLICATION NO. 12289 OF 2025
IN CRA/236/2025

BABAN YADAV VAIRAGAL
VERSUS
MOHAMMAD AYYUB ILIYAS SHAIKH AND ANOTHER

...
Advocate for the Petitioner : Mr. Shubham Jaybhar h/f Mr. Jayabhar
Dattatraya R.

...
CORAM : SHAILESH P BRAHME, J.

DATE : 14.11.2025

PER COURT :

Heard.

2. This revision is directed against order dated 09.10.2025 rejecting application for condonation of delay of 1835 days in preferring civil appeal under Section 96 of the Code of Civil Procedure before the District Court against a decree of eviction.

3. The applicant is the tenant of respondents, who was sought to be evicted by filing Regular Civil Suit No. 146/2007 on the ground of arrears of rent, benefit requires and nuisance. It was recorded by the Trial Court that despite service of summons he failed to appear and the suit proceeded *ex parte*. The suit was decreed on 20.09.2017. Applicant preferred civil appeal along with application for condonation of delay bearing Misc. Civil Application No. 257/2022 on 01.11.2022. The parties adduced oral evidence. Vide impugned order the application is rejected.

4. The learned counsel submits that the applicant was not aware of the

decree passed by the Trial Court. He was not duly served. He was not given opportunity. It is further submitted that there was spread of Covid 2019 and the Court functioning had come to standstill. When the possession warrant was issued by the executing Court, the applicant got knowledge. It is submitted that the delay is not intentional. The applicant is not educated much. It is further submitted that even the Supreme Court by issuing directions condoned the delay from 15.03.2020 to 22.02.2022 due to unprecedented Covid 2019. It is submitted that the possession was protected by the Appellate Court by passing interim orders and arrears of rent have already been paid. The learned counsel submits that one opportunity be granted to the applicant to contest the appeal on merits by condoning the delay.

5. The application for condonation of delay does not spell out the length of delay. Though the applicant adduced his evidence, his cross-examination discloses vital admissions. It is admitted that he appeared in the Regular Darkhast No. 87/2019 on 07.09.2019 and from 24.09.2019 to 30.07.2022 adjournments were sought. It is further admitted that he and his counsel had knowledge of the decree of eviction in 2019 itself. Considering the admissions referred above, the learned Judge found that the applicant had knowledge and these facts were suppressed in the application. The working of the Court had not come to an halt due to pandemic. By the directions of the Apex Court, delay for the period of 15.03.2020 to 22.02.2022 can be condoned. In the present matter, the applicant had already knowledge in 2019.

6. In view of the findings recorded by the learned Judge the impugned order is reasonable and proper. The delay is unexplained. The applicant has suppressed material facts. It can be inferred that the appeal has been preferred with application for condonation of delay just to avoid handing over of possession, which is an oblique motive. I find no reason to interfere in the impugned order.

7. The Civil Revision Application is rejected.
8. After pronouncement of the order, the learned counsel for the applicant prays for protection of his possession as has been done by the Lower Appellate Court, for a period of six months.
9. The decree is of 20.09.2017. The applicant failed to take steps for challenging the decree in time. It is not possible to accept the request. The request is rejected.

(SHAILESH P. BRAHME, J.)

mkd/-