

Amberkar

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

**INTERIM APPLICATION NO. 512 OF 2026
IN
APPEAL FROM ORDER (ST) NO. 289 OF 2026**

Peter Paul John Dias

Applicant /
.. Appellant

IN THE MATTER BETWEEN

Peter Paul John Dias

.. Appellant

Versus

Sumithra Kamath

.. Respondent

**WITH
INTERIM APPLICATION NO. 12638 OF 2025
WITH
APPEAL FROM ORDER (ST) NO. 289 OF 2026**

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- Mr. Nakul Jain a/w Mr. Sankalp Anantwar, Ms. Varsha Kule & Mr. Ronak Mistry i/by SMA Law Partners, Advocates for Applicant / Appellant
 - Mr. Ankul Pahade, Advocate for Respondent
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CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 20, 2026

P. C.:

1. Heard Mr. Jain, learned Advocate for Applicant / Appellant and Mr. Pahade, learned Advocate for Respondent.
2. Present Interim Application seeks condonation of delay of 228 days in filing the Appeal from Order (AO) challenging the order passed by Trial Court in Exh. 15 in Civil Misc. Application No. 847 of 2023.

3. Mr. Pahade on instructions oppose condonation of delay on three grounds viz. firstly Applicant himself is a practicing Advocate and was fully aware about filing of the Appeal from Order within the prescribed timeframe as stipulated under the law, secondly on the ground that Appeal from Order is filed as counterblast to the further proceedings between the same parties before the Trial Court in which interlocutory orders have been passed against the Appellant and thirdly on the ground that filing multifarious proceedings for delaying the final outcome of the proceedings before the Trial Court. He would submit that it is unfathomable that the Applicant/Appellant was unaware of the period of limitation and has approached this Court after an inordinate and unexplained delay of more than 228 days Hence, he would submit that this Court should not be charitable to the Appellant and dismiss the Application.

4. I have heard both the learned Advocates at the Bar. It is true that there is delay of 228 days in filing the Appeal from Order but it is also equally true that there are several proceedings,*inter se*, filed between the same parties challenging the interlocutory orders passed by learned Trial Court. Present AO challenges one such order and there is also previous AO which challenges the later order. While condoning the delay this Court does not enter into the merits of the matter. All that this Court is required to consider at the *prima facie*

stage is whether the reasons assigned for the delay as set out in the Application appeals to the discretion of Court. While applying the principles laid down by the Supreme Court in the decision in the case of *Esha Bhattacharjee v. Managing Committee of Raghunathpur Nafar & Ors.*¹ and the additional guidelines stated in paragraph Nos. 20 and 21 thereof, Court will have to consider the Application seeking condonation of delay holistically in the facts and circumstances of each case. The present case is one where both parties are at loggerheads and are steadfast in their respective pursuit of justice resulting in multiple interlocutory orders passed by the Trial Court being challenged before this Court.

5. I have considered the reasons stated in the Interim Application and *prima facie* in view thereof, I am inclined to condone the delay. Needless to state that by condoning the delay, it does not mean that this Court has accepted the case of Appellant. Hence Interim Application is allowed in terms of prayer clauses (a) and (b) subject to payment of costs of Rs. 10,000/- to Tata Memorial Hospital, Mumbai within a period of one week from today. Copy of receipt of costs shall be placed before the Department.

6. Interim Application No. 512 of 2026 is disposed.

¹ (2013) 12 SCC 649

7. Place the Interim Application (St) No. 12638 of 2025 which is on board at Sr. No. 76 along with AO on **21st January, 2026** under the caption "**for Directions**".

[MILIND N. JADHAV, J.]

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by RAVINDRA
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