

RA.01/2022.

The counsel appearing for the respondent submitted that IA No.1 may be allowed on cost. Heard the learned counsels on IA No.1,

ORDERS ON IA NO.1

As per the affidavit which is sworn by the appellant for the delay caused in filing the appeal which is after lapse of 60 days was due to the Covid-19 pandemic, that he could not contact his counsel within time for all these days. And there is no other intention for delayed filing of appeal and also the approach the counsel to prefer appeal within the period. Therefore prayed for condoning the delay of 60 days in preferring the appeal in the interest of justice and equity.

On the other hand the said IA has been not resisted by respondent.

Perused the materials placed on record, after having heard arguments, this Court has taken the note of the arguments which is addressed by the learned counsel, and also as per the guidelines framed by the Hon'ble Apex Court in catena of decisions, that The court should not presume that the delay is occasioned deliberately or on account of mala fide or the applicant is guilty of culpable negligence since no litigant takes recourse to delay the filing of his application.

In **State (NCT of Delhi) v. Ahmed Jaan at paragraph [14]**, it has been held that by the "expression 'sufficient cause' should be considered with pragmatism in a justice-oriented approach rather than the technical detection of sufficient cause for explaining every day's delay.

That by keeping the ratio laid down by the Hon'ble Apex Court, since the appellant is being a government servant, the delay has to be condoned which is also not so high. In this case on hand, the judgment in OS.206/2016 was pronounced and decree was drawn on 27-09-

2021, and the appeal has been preferred on 05.01.2022, there are 60 days from the date of decree delay have been caused to prefer this appeal. As per the ratio laid down by the Hon'ble Apex Court as read above, due to the health issue which the mother of this appellant had at the time when the appeal ought have been filed, so that he could not contact his counsel to prefer appeal then naturally, the delay may occur. Therefore, the delay has to be condoned. Accordingly, I proceed to pass the following:-

ORDER

The IA No.1 filed by the appellant U/Sec.5 of Limitation is hereby allowed, the delay of 60 days caused in filing of the present appeal is hereby condoned on cost of Rs.300/-

Call for TCR and for objection to IA no.2.

Call on:18-07-2022.

JMFC.,

Senior Civil Judge &
Holalkere.