

ORDER BELOW EXH. 1
IN CIVIL MISC. APPLN No. 545/2024

Lata Kaluram Kale
Vs
Sangita Vijay Kolhe

Perused the application Exh. 1 for condonation of delay and the say of respondent.

2. Heard the advocates for applicant and respondent.

3. This is an application for condonation of delay of 451 days. It is submitted by the applicant that this appeal is preferred against the exparte judgment and decree in R.C.S. No. 1366/2021 dated 12.12.2022. The applicant states that she was admitted in the Dhanvantari Hospital, Rasta Peth, Pune from 19.07.2021 to 24.07.2021 due to leg ache and the operation was performed of her leg. Due to anemic condition, she was unable to walk.

4. It is further submitted that after the exparte judgment and decree dt. 12.12.2022, respondent filed Regular Darkhast No. 16/2023 against the applicant. Applicant came to know about exparte order when she received notice on 21.02.2023 of Regular Darkhast No. 16/2023. Applicant appeared in Regular Darkhast and deposited Rs. 15,000/- in the Court on 14.03.2023. Thereafter, due to her illness, she could not remain present in the Court. Thereafter, she suffered from Jaundice on 24.03.2023 and admitted in Ganga Nursing Home, Mundhwa. Hence, she could not attend the Court. On 27.04.2023 she paid her Advocate Rs. 5000/- to deposit in the Court. In spite of this, the distress warrant was issued against her. Therefore, she had given six cheques from 10.11.2023 to 10.03.2024 for depositing the amount in the Court.

5. She has filed an application for certified copy on 07.12.2023 and she received the certified copies on 20.12.2013. Due to her ailment and death of her brother-in-law, she was not able to file the appeal within limitation period.

6. Respondent filed the say and opposed this application. She has denied the contentions made by the applicant. She has submitted that there is no justifiable reason for delay. She has further submitted that even if it is accepted that the surgery of the leg of the applicant was carried out, but the same was carried out in between 19.07.2021 to 24.07.2021. But the Civil Suit was filed on 18.08.2021. The summons was duly served on 20.09.2021. As the applicant did not appear in the suit, the ex-parte judgment was passed on 12.12.2022 i.e., after the period more than 14 months. Thereafter, there is delay of 451 days in filing this appeal. Therefore, the said operation of the accused cannot be the reason for the delay of 451 days. There is no document to show that the applicant was suffering from Jaundice. Merely two blood reports are produced. The reports of doctor treating her is not produced. Therefore, the test reports cannot be relied upon. So also, the respondent appeared in the Darkhast and deposited the amount in the Court for two times and also delivered six cheques for the remaining amount. Therefore, the decree is satisfied and the respondent had withdrawn the Execution Proceeding. Thereafter, this application is moved afterthought.

7. After considering submissions advanced by both the sides, it appears to me that there is huge delay of 451 days in filing an appeal. The reason is stated by the applicant that surgery of her leg was carried out, but the same was carried out even prior to the filing of the suit. The suit summons were served upon the applicant on

20.09.2021, but she did not appear in the suit for more than 14 months and, therefore, the judgment and decree was passed against her on 12.12.2022. The Execution proceeding was filed and the applicant received the notice of the same on 21.02.2023. The applicant appeared therein on 14.03.2023 and paid Rs. 15,000/-. Even if, it is taken as granted that the applicant came to know about the judgment and decree at the time of receipt of notice on 21.02.2023, then also this application for condonation of delay was moved on 14.03.2024. That means, this application is moved after more than one year. In the said Execution Proceeding, the applicant appeared and, therefore, she had knowledge about the judgment and decree. Therefore, the question arises as to why she had taken period of one year to file an appeal. The reason is given that she was suffering from the jaundice. However, this statement is vague. It is not specifically stated that during which period she was suffering from jaundice. The medical report is not produced for showing the period of the treatment. Merely, two blood test reports are produced of dt. 25.03.2023. Except this, nothing is produced. Hence, it cannot be gathered as how much period she was suffering from jaundice. Therefore, there is vagueness on this aspect. This appeal is filed after mere about one year. The death certificate produced by the applicant shows that the brother-in-law of the applicant was died on 28.02.2024. But till that date delay was near about 1 year from the date of receipt of the notice of execution proceeding. Therefore, it appears to me that the reasons brought by the applicant are not cogent and reliable. The decretal amount is deposited in the Court and the decree is satisfied. Therefore, the said Execution Proceeding is withdrawn by the respondent. Hence, considering all these things, it

appears to me that the applicant has not brought the sufficient reasons to condone the delay. The reason brought by the applicant that she suffers from jaundice, even though accepted, there is vagueness on the point of said decease. The delay is of 451 days which is huge. Hence, I come to the conclusion that the applicant has not proved the sufficient reason to condone the delay. Therefore, I proceed to pass the following order.

ORDER

Civil Misc. Application No. 545/2024 is dismissed.

Pune

Date :- 01.08.2026

(R.N. Hiwase)

District Judge-25, Pune.

CERTIFICATE

I affirm that the contents of this P.D.F. file judgment / order are same, word to word, as per the original Order.

Name of the Stenographer : V. N. Bankapure (Steno-I)

Court : R.N. Hiwase
District Judge - 25, Pune

Order Date : 01.08.2026

Order signed by the
Presiding Officer on : 01.08.2026

Order uploaded on : 01.08.2026 .