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Decided on	14/11/2019		
Duration	Y.	M.	D.
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Exhibit No.	13		

IN THE COURT OF DISTRICT JUDGE – 1, BULDANA.

(Presided over by - Smt. Chitra R. Hankare)

Civil M.A. No. 04/19

CNR – MHBU-010001352019

Ashok Babulal Agrawal,
Age 66 years, Occupation – Business,
r/o and tq. Chikhli,
Dist. Buldana

...Petitioner

...Versus...

1. Maharashtra State Electricity
Distribution Company Ltd.,
By its Executive Engineer,
Buldana Division, Chikhli Road,
Buldana Dist. Buldana,
2. Sub Divisional Engineer,
M.S.E.D.C.L. Chikhli,
Sub Division Chikhli,
Chikhli, Dist. Buldana.

...Respondents

APPLICATION FOR CONDONATION OF DELAY.

**Smt. Sharvari Saoji Tupkar, Advocate for petitioner,
Shri G.R. Gawande, Advocate for respondent no. 1 and 2.**

JUDGMENT

(Delivered on 14th November, 2019)

This is an application for condonation of delay. Perused the application and say. Heard learned Advocate appearing for the

petitioner and learned Advocate appearing for the contesting respondents.

02. The petitioner has filed civil suit for mandatory injunction bearing Regular Civil Suit No. 39/2018 in the Court of Civil Judge, Junior Division, Chikhli in which an order of rejection of plaint came to be passed by the learned trial Court. The petitioner wanted to challenge that order and that appeal is required to be filed on or before 20.12.2018. Therefore, he had obtained certified copies of said order from the Court. However, said copies were misplaced. He again obtained the certified copies of the order. However, thereafter, there was winter vacation to the court. Hence, he could not file the appeal within the period of limitation. There is delay of 13 days only. The delay is not intentional and no prejudice is caused to the other side, if the delay is condoned.

03. Respondents appeared and have denied the application. It is contended that the reasons are false and day to day delay is not explained. Hence, the application for condonation of delay is liable to be dismissed with costs.

04. Heard the learned Advocate for applicant as well as for the respondents.

05. Points and findings :-

<u>Sr.No.</u>	<u>Points</u>	<u>Findings</u>
(1)	Whether the petitioner is entitled for condonation of delay so as to file regular civil appeal challenging the order of rejection of plaint ?	...Affirmative.

(2) What order ?

...As per final order.

REASON

As to point No. 1 :-

5. The law for condonation of delay is such that Court is expected to take justice oriented approach so as to enable the parties to challenge the order before the appropriate court. Only it is to be seen that the person wants to challenge the order and requesting for condonation of delay is not negligent.

6. In this case, it can be accepted that the certified copies obtained by applicant were misplaced and therefore, the applicant compelled to obtain the same again. Thus, there is delay in filing the appeal. Apparently, this delay can not be said to be intentional one. In such situation, the delay is required to be condoned. But other should not suffer and therefore, it is subject to cost. Hence, I have answered the point no. 1 in affirmative.

As to point no. 2 :-

7. In view of my finding to point no. 1 in affirmative, I proceed to pass the following order.

ORDER

The application for condonation of delay is allowed subject to cost of Rs. 500/- (Rs. Five hundred only) payable to other side.

On payment of costs, the delay in filing Regular Civil Appeal is condoned and the said appeal be registered.

Dt. 14/11/2019

(Smt. Chitra R. Hankare)
District Judge – 1,
Buldana.

Certificate

I affirm that the contents of this PDF order are same word for word, as per original.

Name of Court : District Judge-1, Buldana.

Name of Steno : P.K. Patki, Stenographer (Grade 1.).