

**IN THE COURT OF METROPOLITAN MAGISTRATE, 43RD
COURT, BORIVALI, MUMBAI**

C.C.NO.2761/M/2022

ORDER BELOW EXH.1

1. This application has been filed by the applicant for condonation of delay caused for filing the complaint.

2. It is contended in the application that the cause of action for filing the present complaint had arisen on 13.07.2022. As the office of the Advocate of the complainant was being shifted at the time of filing of the complaint, during the transit the original documents of the said matter were inadvertently misplaced and not traceable. Therefore, he could not present the complaint within time and accordingly, delay of 85 days has been caused. The delay may be condoned.

3. The notice of this application was issued to the respondent by post and it is reportedly served upon him on 04.05.2023 as per postal track report submitted by the applicant on record. He failed to appear, therefore, the application is proceeded ex-parte against him.

4. Perused the application and heard the applicant. Admittedly, the complaint is not filed within time and delay of 85 days has been caused because the office of the Advocate of the complainant was being shifted and during the transit the original documents of the said matter were inadvertently misplaced and not traceable. The reason given by the applicant for his inability to file the complaint within time is reasonable and proper. Considering the period of delay and the reason mentioned in the application for applicant's inability to file the complaint within time, it would be proper to condone the delay and allow the applicant to present complaint. Such a condonation of delay

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in filing the complaint is also necessary for final adjudication of the dispute between the parties on merits. Considering all above aspects, I pass following order-

ORDER

1. This Miscellaneous application is allowed.
2. Delay caused in filing the complaint is condoned.
3. The office is directed to register the complaint after removing office objections if any by the complainant within a period of 30 days from the date of this order.
4. The complainant to note and comply accordingly.

Mumbai,
Date: 02/02/2024.

Sd/-
(**S. D. GAWADE**)
Metropolitan Magistrate,
43rd Court, Borivali, Mumbai.