



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 669 OF 2018.
IN
FIRST APPEAL ST. NO. 25549 OF 2017.

Smt. Anita Advani

...Appellant.

Versus

Smt. Dimple Jatin Khanna And Ors.

...Respondents.

Mr. Siddhesh Bhole and Ashwin Pimpale, P. Saxena i/by SSB Legal and Advisory for the Applicant.

Mr. Ashish Kamat Senior Advocate a/w Mr. Bharat Jain, Isha Chaudhary, Mr. Hrishekesh Tajane i/by I. C. Legal for the Respondent.

Coram : Sharmila U. Deshmukh, J.

Date : March 3, 2025.

P. C. :

1. Civil Application has been preferred seeking condonation of delay of 16 days caused in preferring the Appeal.

2. Learned Counsel appearing for the Applicant submits that the impugned Judgment was passed on 15th July, 2017 and the certified copy was collected on 26th July, 2017. The statutory period for filing of the Appeal expired on 25th August, 2017 and due to the difficulty in consulting a lawyer there is delay of 16 days. He submits that it is specific case of the Applicant that due to erroneous legal advice the Applicant was given to understand that the period of limitation was 90 days whereas it is only 30 days.



3. Mr. Kamat, learned Senior Advocate appearing for the Respondent would oppose the Application and would submit that the fact that the Applicant has been litigating would make it evident that the contentions in paragraph 6 are incorrect pleadings. He would further submit that there is no question of any erroneous advice being available when the law is clear that the statutory period of limitation is 30 days.

4. The delay in the present case is only of 16 days caused in filing the Appeal. It is specifically pleaded that the Applicant was harboring under erroneous legal advice that period of 90 days is available to challenge the impugned Judgment which cannot be doubted for the reason that under the Limitation Act, 1963 the period of limitation for challenging the decree is prescribed as 90 days whereas under the Section 15 of the Bombay Civil Court Act, 1948 the period is 30 days against decree of City Court. Further the delay is not such colossal, inordinate, unexplained delay which could not be condoned.

5. In light of the above, the Application is allowed, delay stands condoned. List the above First Appeal on **11th March, 2025**.

[Sharmila U. Deshmukh, J.]