

Bharat Deo Singh			Appellant
Versus			
Most. Pano Devi and others			Respondents

For the Appellant : Mr. Amar Kr. Sinha, Advocate
Mr. K.K. Ambastha, Advocate
For the Respondents :

08 / Dated : 22.11.2021

Heard learned counsel for the appellant in this interlocutory application which has been filed under Section 5 of the Limitation Act for condoning the delay of about three months in filing the appeal against the judgment and decree passed by the Additional Judicial Commissioner, F.T.C.-VI, Ranchi in Title Appeal No. 136 of 2007.

It is submitted by learned counsel appearing for the appellant that the appellant who used to look after the case suddenly fell seriously ill and he was confined to bed from 06.09.2009 to 22.03.2010 and after recovery from his illness and after arranging necessary funds he approached his counsel and then the appeal was filed. It is further submitted that the delay is purely unintentional and considering the duration he prays for condoning the delay. Reliance has been place on **Dr. Yashwantrao Bhaskarrao Deshmukh Vs. Raghunath Kisan Saindane (2021 SAR (Civ) 1084)** which involved delay of 650 days in filing the appeal on the plea of lack of knowledge of the decision in the appeal it has been held *that the litigant, who is contesting the matter, cannot be negligent and it would be unfair to deprive the respondent, litigating for the last 17 years, of the valuable right that has accrued to him. In this case the appellant*

has also produced the documents including voters' list/ Adhar Card showing his change of address from Amalner to Nasik. In view of the above, a lenient view was taken in the condonation matter.

In the instant case notice on the condonation petition has been served on the respondents and the counter affidavit has also been filed in which it has been submitted that the ground taken for condonation of delay is not, at all, true and the same is false and fabricated and not a single chit of medical prescription or cash-memo of medicine purchased by him has been filed.

Having considered the rival submission and the grounds taken in the interlocutory application for condonation of delay and for the ends of substantive justice, the condonation petition is allowed.

S. A. No. 51 of 2010

List this matter under the appropriate heading.

(Gautam Kumar Choudhary, J.)