

Sl. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
			<p data-bbox="774 412 1029 443">FA No.123 of 2020</p> <p data-bbox="774 450 1385 481"><u>Hon'ble Sharad Kumar Sharma, J.</u></p> <p data-bbox="774 510 1501 584">Mr. Bhuwan Bhatt, Advocate, for the appellent.</p> <p data-bbox="774 591 1501 665">Mr. Ajay Singh Bisht, Advocate, for the respondent.</p> <p data-bbox="774 703 1501 1039">Though this Court owing to the facts, and pleadings raised in the delay condonation application which are apparent on record, is not in agreement with the argument extended by the counsel for the appellent in support of the delay condonation application CLMA No.6737 of 2020.</p> <p data-bbox="774 1068 1501 1337">The pretext, which has been taken in the delay, is a delayed extension of the legal opinion to file an appeal, and secondly that the delay ought to be condoned in view of the judgment of the Hon'ble Apex Court.</p> <p data-bbox="774 1366 1501 2107">These two pleas are not available because according to the records itself, the appellent had applied for the certified copy of the judgment dated 29.11.2019 on 23.12.2019, which was received by them on 24.12.2019, and if the limitation is computed in view of the provisions contained under Order 41 Rule 1 of the CPC, where an appeal is being provided which could be preferred against the judgment, by virtue of the amendment, which was made by an Act No. 46 of 1999, with effect from 01.07.2002, the appeal would lie against the judgment and since the appeal has been preferred after the expiry of the period of limitation even</p>

			<p>after the date of the receipt of the certified copy of the judgment on 24.12.2019. The reason that to bring the action within the ambit of limitation prescribed by the Hon'ble Apex Court will not be applicable in the given circumstances of the present second appeal.</p> <p>Second argument extended by the learned counsel for the appellant, that the legal opinion which was acquired by the appellant, was at a belated stage. Hence, the delay has to be condoned is too, an argument which is not acceptable by this Court because procurement of a legal opinion, is absolutely a prerogative of the appellant, which cannot be constituted as to be a reason for condoning the delay. But taking a pragmatic view, because the attempt should be made by the courts that lis has to be decided on its own merit, particularly when, it is emanating from the final adjudication made by the Court, the delay of 178 days, would stand condoned, subject to the condition of payment of cost of Rs.25,000/- to the respondent.</p> <p>The appellant would ensure to remit the cost within a period of three weeks' from today.</p> <p>List this appeal under the head of the admission, only when the proof of payment of cost is placed on record.</p> <p style="text-align: right;">(Sharad Kumar Sharma, J.) 15.06.2022</p> <p>NR/</p>
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