

Bombay High Court

Shri. Amirchand Hanjarmal Jain vs Shri. Hitesh Lakhamshi Shah on 13 July, 2022

Bench: Anuja Prabhudessai

P.H. Jayani

08(A) CAF129.2019.doc

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 129 OF 2019  
IN  
FIRST APPEAL (ST.) NO. 18067 OF 2018

Shri. Amirchand Hanjarmal Jain . . . . Applicant

v/s.

Shri. Hitesh Lakhamshi Shah . . . . Respondent

Ms. Tejashree Choudhari i/b. IntraLegal for the Applicant.

Mr. Gaurav G. Dave for the Respondent/original plaintiff.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 13th JULY, 2022.

P. C. :-

. By this Application, the Applicant has sought to condone the delay of 229 days in filing the Appeal.

2. The Respondent-plaintiff herein had filed a summary suit alleging non payment of Rs.1,72,770/- against delivery of goods. The summons for judgment was allowed on 06/04/2009. Aggrieved by this, Appeal was filed before this Hon'ble Court. The said Appeal was allowed on 16/06/2010, subject to payment of Rs.1,00,000/- and the case was remanded for denovo consideration.

3. The summons for judgment was heard and leave was granted to the Appellant to file the written statement subject to the deposit of P.H. Jayani 08(A) CAF129.2019.doc balance amount of Rs.78,321/-. The Applicant did not deposit the said amount and hence, the suit came to be decreed on 01/08/2017.

4. By this Application, the Applicant has sought to condone the delay in filing the Appeal. The Applicant has stated that in view of demonetization, his business had come to stand still and the Applicant had to return to his home town in Andhra Pradesh. It is stated that he had changed his sim card and as such, his advocate was unable to contact him. The Applicant claims that he returned to Mumbai only in the month of January, 2018. He learnt about the judgment and decree on 11/06/2018 when the officer from the City Civil Court visited his house to execute the warrant of attachment on movable property.

4. Considering the reasons stated in the Application, which in my considered view constitute sufficient grounds, delay is condoned subject to payment of costs of Rs.10,000/- to be paid to the

Legal Services Authority. Appeal is ordered to be registered after removal of office objections, if any.

5. Civil Application stands disposed of. PREETI H JAYANI Digitally signed by (SMT. ANUJA PRABHUDESSAI, J.) PREETI H JAYANI Date: 2022.07.15 14:29:14 +0530