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IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO.547 OF 2023

IN

APPEAL UNDER ARBITRATION ACT NO.2542 OF 2022 (F)

RADHA KRISHAN SHARMA THR. POA

BHUVAN SHARMA

... APPLICANT

Versus

HARIHAR VAIKUNTH NAYAK AND ANR

... RESPONDENTS

Mr. Atul Sadre, Advocate for the Applicant.

CORAM:- VALMIKI MENEZES, J.

DATED :- 28th August, 2026

P.C.:

1. This is an application for condonation of delay in filing an Appeal under Section 37(2) of the Arbitration Act against the Judgment of the District Court dated 29.08.2022 dismissing the Applicant's application under Section 34 of the said Act.

2. According to the Applicant, the Judgment of the District Court, having been passed on 29.08.2022, limitation in terms of Article 116 of the Limitation Act, which is 90 days, would expire on 26.11.2022 and the Appeal came to be filed on 28.11.2022. According to the learned Advocate for the Applicant, since the application for condonation of delay, if one deducts the time taken for the certified copy being issued, i.e., the date on which the application was made, i.e. on 05.09.2022 and the date when the

copy was delivered on 20.09.2022, there would be practically no delay in filing this Appeal.

3. On considering the observations of the Supreme Court in Government of Maharashtra (Water Resources Department) V/s Borse Brothers Engineers and Contractors Private Limited reported in 2021 6 SCC 460, made in para 63, the delay in filing Appeals under Section 37 would have to be condoned in exceptional cases where they are filed beyond the period of 90 days under Article 116 of the Limitation Act.

4. Considering the specific facts of this case, in my opinion, there is practically no delay in filing the Appeal. In any event, the delay of two days, if one reckons the limitation from the date of passing of the Judgment, was due to the bona fide advice given by the Advocate that the limitation was 90 days and would expire beyond 28.11.2022. Considering this fact, the delay of 2 days stands condoned. Misc. Civil Application No. 547 of 2023 stands disposed of. Appeal under Arbitration Act No. 2542 of 2022(F) shall be registered, provided all office objections are cleared within two weeks.

VALMIKI MENEZES, J.