

**IN THE HIGH COURT OF JUDICTURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**FIRST APPEAL (L) NO. 18823 OF 2013
WITH
CIVIL APPLIATION NO.4773 OF 2013
AND
FIRST APPEAL (L) NO. 18823 OF 2013**

M/s. Lucky Restaurant ... Applicant.
In the matter of :

M/s. Lucky Restaurant ... Appellant.
Versus.

Mr.Vijay Narayan Patil & 5 Ors., ... Respondents.

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Mr.Shoaib I. Memon, Advocate for Applicant/Appellant.

Mr.Rajesh Revankar i/by M/s.A.G.Revankar & Associates, Advocate for
Respondent Nos.1 to 5.

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CORAM :MRS.MRIDULA BHATKAR, J.

DATE:24th DECEMBER 2013

PC. :

Application is moved for condonation of delay of 324 days.
Appellant have filed a suit for challenging the notice given by the
Corporation in respect of the unauthorized construction. Appellant is
running a restaurant. Learned counsel for the appellant submits that one
of the partner Kifayatulla Suleman Sunesra-in charge of the legal
proceeding is undergoing dementia and mental pressure and is taking
treatment of Psychiatric since last one and half year. Learned counsel

produces the medical papers of one Sanidhay Hospital from Palanpur along with Medical Report and the said Report is taken on record and marked 'X' for identification.

2. Learned counsel for the respondent submits that reason given in the application is false. The appellant during the period of delay use to attend legal proceeding before the Small Causes Court and also the City Civil Court. Learned counsel submits that as the reasons given by the appellants are not justifiable to condone the delay, the application be rejected.

3. The submission of learned counsel for the respondent that the appellant was attending the dates in the Small Causes Court and City Civil Court during that period is not denied and the certified copy of the Roznama is also produced by the respondent. However, the medical papers, with regard to the treatment taken by the appellant, who is one of the partner, are produced by the appellant. The reason given by the appellant is not found fully satisfactory. However, as the medical papers have been produced, in the interest of justice application for condonation of delay is allowed. Delay of 324 days is condoned subject to payment of

cost of Rs.5,000/- to the respondents within six weeks. Appeal is placed for admission on 29th January, 2014.

(MRS. MRIDULA BHATKAR, J.)