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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.11591 OF 2014

Lata Kishorilal Parekh @
Shila Harendra Shaha.

..Petitioner

-Versus-

Kiran Navneet Patel.

..Respondent

.....

Mr.M.D.Joshi, Advocate for the Petitioner.

Mr.A.D.Kasliwal, Advocate for the Respondent.

.....

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 02nd March, 2015

Per Court:

1 The contention of the Petitioner is that Rent Suit No.33/2007 was decided against the Petitioner/ Tenant ex-parte on 24.03.2009. The Petitioner preferred an application being MARJI No.612/2009 under Order 9 Rule 13 of the Code of Civil Procedure which came to be rejected on 07.04.2012. He then preferred Miscellaneous Civil Appeal No.166/2012 which has been rejected on 21.11.2014.

2 In the meanwhile, the Petitioner had preferred Writ Petition No.7068/2012 which was disposed of by this Court on 14.08.2013 permitting the Petitioner to prefer an Appeal from Order. However, the

Petitioner has preferred a Regular Civil Appeal which is yet to be registered along with an application for condonation of delay which is yet to be decided and with an application for stay bearing M.A.R.J.I. No.383/2014.

3 By the impugned order dated 27.11.2014, the learned Appeal Court has rejected the application for stay MARJI No.383/2014.

4 I have heard Mr.Joshi, learned Advocate appearing for the Petitioner and Mr.Kasliwal, learned Advocate appearing on behalf of the sole Respondent, for quite sometime. The issue is as regards the application for condonation of delay still pending before the Appeal Court in relation to a Regular Civil Appeal preferred by the Petitioner praying for quashing and setting aside the Eviction Decree dated 24.03.2009 passed in Rent Suit No.33/2007.

5 Ever since the date of Eviction Decree dated 24.03.2009, the Petitioner is without any relief or protection as against the said eviction decree. The application for delay condonation filed by the Petitioner is still pending. It seems to be necessary in the light of the peculiar facts as regards the litigation between both the sides, that the application for condonation of delay needs to be decided expeditiously.

6 However, since the Petitioner has been without any protection in relation to the Eviction Decree dated 24.03.2009 till this date, I am not inclined to grant any protection to the Petitioner. Suffice it to say that in the event the Petitioner succeeds in getting the delay condoned, he would be at liberty to take recourse to law as may be permissible.

7 With the above observations, this Writ Petition is disposed of without causing any interference in the impugned order dated 27.11.2014.

(RAVINDRA V. GHUGE, J.)