

IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 341 OF 2015

IN

STAMP NUMBER (APPLN.) NO. 746 OF 2015

ROSMERTA TECHNOLOGIES LTD. THROUGH
ITS AUTHORIZED SIGNATORY SHRI.
SANJEEV CHAVAN.

... Applicant

Versus

STATE OF GOA, THROUGH ITS
PRINCIPAL SECRETARY, TRANSPORT
DEPT. AND 3 ORS.,

... Respondents

Mr. S. S. Kantak, Senior Advocate with Mr. P. Talaulikar, Advocate
for the Applicants-Petitioners.
Mr. D. Lawande, Government Advocate for the Respondent nos. 1 to
3.
Mr. D. K. Singh and Mr. P. Sawant, Advocate for the Respondent
no.4.

Coram:- F. M. REIS &
K. L. WADANE, JJ.

Date:- 10th August, 2015

P.C.

Heard Mr. S. S. Kantak, learned Senior Advocate appearing for
the Applicants-Petitioners, Mr. D. Lawande, learned Government
Advocate appearing for the Respondent nos. 1 to 3 and Mr. Singh,
learned Counsel appearing for the Respondent no. 4.

2. This is an application for condonation of delay of 186 days to file
a Review Petition.

3. It is pointed out by Shri S. S. Kantak, learned Senior Counsel appearing for the Applicant, that the Petitioners filed a Special Leave Petition before the Apex Court challenging the Judgment passed by the Division Bench of this Court and after the matter was being heard, the Petitioners sought liberty to withdraw the SLP to enable them to approach this Court in a Review Petition. Learned Senior Counsel further pointed out that the delay to file the Review Petition was essentially because the Petitioners had challenged the Judgment of this Court before the Apex Court. Learned Senior Counsel has further pointed out that after the Apex Court had passed the said Orders, there was further delay of 92 days in filing the Review Petition for reasons stated in the application. Learned Senior Counsel further pointed out that the Petitioners have acted bonafide and in good faith and, as such, the delay be condoned.

4. On the other hand, Shri Singh, learned Counsel appearing for the Respondent no. 4, has vehemently opposed the above application. Learned Counsel further pointed out that there was no leave granted by the Apex Court to file a Review Petition as sought to be made out by the Petitioners. Learned Counsel further pointed out that even after the disposal of the matter before the Apex Court, there was further delay by the Petitioners which is not at all justifiable. Learned Counsel further pointed out that there are wrong statements made by the Petitioners in their application. Learned Counsel has further pointed out that the Respondent no. 4 has made substantial

investments and, as such, the question of exercising any discretion in favour of the Petitioners, at this stage, would cause grave prejudice to the said Respondent.

5. Mr. Lawande, learned Government Advocate appearing for the Respondent nos. 1 to 3, has submitted to the Orders of this Court.

6. We have given our thoughtful considerations to the rival contentions. It is not disputed that in fact the Applicants had challenged the Judgment under review before the Apex Court. The records also reveal that the Applicants had withdrawn their Special Leave Petition with an intention to file a Review Petition before this Court. In such circumstances, it cannot be said that there are any malafides which can be attributed to the Applicants. But, however, with regard to the contention of learned Counsel appearing for the Respondent no. 4 that substantial investments have been effected by the said Respondent, this aspect can be considered at the time of the hearing of the Review Petition on merits. It is not the contention of the Respondent no. 4 that the Applicants have deliberately approached this Court belatedly with malafides.

7. Apart from that, there was delay of 92 days after the Apex court had disposed of the SPL. Such delay cannot be on account of gross negligence on the part of the Applicants. On account of the delay, the Applicants should be directed to pay costs to the Respondent no.

4 which are quantified at Rs.10,000/- as condition precedent.

8. In view of the above, we pass the following :

ORDER

- (i) The application for condonation of delay is granted subject to the Applicants paying costs of Rs.10,000/- to the Respondent no. 4 as condition precedent.
- (ii) All contentions including maintainability of the Petition of the parties on merits are left open.
- (iii) Application stands disposed of accordingly.

K. L. WADANE, J.

F. M. REIS, J.

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