

IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 451 OF 2015

IN

STAMP NUMBER MAIN NO. 2061 OF 2015

SHRI. JOAQUIM TELES AND 4 ORS.,

... Applicants

Versus

SHRI. LUIS CAETANO GUILERME
WELINGTON FERNANDES E D'MELLO AND
3 ORS.,

... Respondents

Mr. Arjun F. Naik, Advocate for the Applicants.

Coram:- C. V. BHADANG, J.

Date:- 7th August, 2015

P.C.:

This is an application for condonation of delay of 3 years, 8 months and 12 days in filing a revision application challenging the order dated 14/10/2011 passed by the learned Registrar (Judicial) of this Court refusing registration on account of none removal of office objections.

2. It is submitted that the applicants had engaged Advocate Dinesh Naik who is practicing before the District Court. An affidavit of the said counsel dated 7/8/2015 is filed on record which shows that as the applicants were known to the concerned Advocate Shri Naik and as the applicants were running out of time to file the second appeal, the brief was handed over to the said counsel with a request to file the

second appeal. The affidavit further recites that the counsel was not aware of the procedure followed and about hearing and listing of the matters before the learned Registrar and he was under the bonafide belief that the parties or the lawyer would receive notices of the hearing when the matter will be listed for hearing before the Court. It is only when the applicants received the notices in execution application that the applicants inquired and it was learnt that the registration of stamp no.2061/2015 was refused. It is submitted that the delay is not intentional nor out of active negligence. The applicants state in the application that they were under bonafide belief that the concerned advocate who is looking after the matter would inform them about the listing of the second appeal before the Court.

3. It is stated by Mr. Naik, the learned counsel appearing for the applicants that they bonafidely relied upon Advocate Dinesh Naik expecting that they would be informed when the matter is listed on board. It is submitted that Advocate Dinesh Naik has also sworn an affidavit in support of the application and the delay needs to be condoned and the impugned order needs to be set aside.

4. As the registration of Stamp no.886/2011 was itself refused, it would not be necessary to issue notice to the respondents. Although the delay is substantial, looking to the fact that the concerned advocate has sworn an affidavit in support of the application and

further having regard to the fact that the concerned advocate was not regularly practicing before this Court, I find that the delay deserves to be condoned subject to payment of costs of Rs.10,000/- (Rupees ten thousand only) to be deposited with the Goa State Legal Services Authority. The application is accordingly allowed. The delay in filing the civil revision/stamp main no. 2061/2015 is hereby condoned subject to deposit of costs of Rs.10,000/- with Goa State Legal Services Authority within one week from today. Let the revision application be registered.

C. V. BHADANG, J.

ap/-