

IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 748 OF 2014

IN

STAMP NUMBER MAIN NO. 2131 OF 2014

WESTERN VISION BUSINESS INDUSTRIES
LTD., REP. BY ITS DIRECTOR MR.
ANIL MEWADA

... Applicant

Versus

BRK COMMODITY INDIA LTD., REP. BY
ITS AUTHORIZED REPRESENTATIVE MR.
DOMINGOS FERNANDES

... Respondent

Adv. Gaurish N. Agni for the Applicant.

Coram:- N. M. JAMDAR, J.

Date:- 6th February, 2015

P.C.:

Heard Mr. G. Agni, learned counsel for the applicant.

2. By this application, the applicant prays that the delay of one year and 5 months in filing the appeal be condoned.

3. The respondent had filed application under section 9 of the Arbitration and Conciliation Act, 1996. The application was allowed by the District Judge on 5/1/2013. In the application, the issue was regarding 12500 M.T of Iron ore. It was the case of the applicant that the material in question was lying on the site with the one M/s Menezes and Sons and it was the respondent who had taken the material.

4. In the application filed under section 9 of the Act, the applicant had contended that no Commissioner be appointed without said M/s

Menezes and Sons being party to the proceedings. By the order under challenge in the appeal, the District Court allowed the application for appointment of Commissioner. The applicant submitted the objections to the report of the Commissioner thereafter in the arbitration proceedings. The applicant placed on record that M/s Menezes shifted their premises. The Tribunal again reiterated M/s. Menezes need not be made a party. It is the case of the applicant that the thereafter they decided to challenge the order impugned in the appeal. According to them advocate was engaged to take the appeal, however, advocate could not take up their case. Thereafter, they contacted another advocate and hence there was delay.

5. Notices were issued in this application on 7/11/2014. The office remark shows that the service is complete. None appears for the respondents. No cause is shown as to why delay in filing the appeal be condoned. The applicant has narrated the reasons as to why the appeal could not be filed in time.

6. Considering the facts and circumstances of the case, that sufficient cause is made out for condonation of delay in filing the appeal, the application is allowed in terms of prayer clause 'b'. No cost.

N. M. JAMDAR, J.

ap/-