

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 506 OF 2014
IN
CIVIL REVISION APPLICATION (STAMP) NO. 13342 OF 2014

Uday Shivram Patne	..	Applicant
vs.		
Babanrao Baburao Pawar	..	Respondent

Mr. A. B. Kadam for Applicant.
Mr. Sagar Jadhav i/b. RBK & Associates for Respondent.

CORAM : M. S. SONAK, J.
DATE: 11 JUNE 2015

P.C. :-

1] This civil application seeks condonation of delay of about 1 year and 107 days in instituting the revision petition against judgment and order dated 19 October 2012 made by the District Court, Satara.

2] There is no dispute that as against the judgment and order dated 19 October 2012, the applicant had preferred second appeal no. 228 of 2013 within the prescribed period of limitation. On 13 March 2014, however upon realization that the second appeal was not the appropriate remedy, the applicant was permitted to withdraw the same with liberty. Within two months from the date of said withdrawal, the present CRA came to be instituted.

3] The respondent has filed an affidavit to oppose the condonation of delay. Mr. Sagar Jadhav, the learned counsel for the respondent submitted that there is absolutely no cause shown in the application seeking condonation of delay in order to explain, in particular, the delay in instituting the revision application, once the second appeal was permitted to be withdrawn. In absence of any cause shown, Mr. Jadhav contended that the present application deserves to be dismissed.

4] There is no doubt that the applicant had preferred second appeal against the impugned order within the prescribed period of limitation. The second appeal was permitted to be withdrawn on 13 March 2014. The applicant has stated that some time was spent in obtaining the certified copy of the orders. Thereafter, the revision petition has been instituted hardly within a period of two months. In these circumstances, it cannot be said that no cause has been shown or that the applicant was not diligent in pursuing the matter. Undoubtedly, some prejudice is bound to occasion the respondent, the prejudice is not of such a degree as would dis-entitle the applicant to seek redressal against the impugned judgment and order dated 19 October 2012. The prejudice, is one which is compensable by costs.

5] Accordingly, civil application is made absolute in terms of prayer clause (a). This shall however be subject to the applicant paying costs of Rs.7,500/- (Rupees Seven Thousand Five Hundred) to the respondent within a period of four weeks from today. Once the costs are paid / deposited within the aforesaid period, place the CRA for admission on 13 July 2015.

6] Civil application is disposed of accordingly.

(M. S. SONAK, J.)

Chandka