

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
CIVIL APPLICATION NO.3697 OF 2014
WITH
CIVIL APPLICATION NO.3698 OF 2014
AND
FIRST APPEAL (ST) NO.23555 OF 2014

The New India Assurance Co. Ltd. ...Applicant

V/s.

Ranjana Rajaram Patil & Ors. ...Respondents

Mr. S. M. Dange for the Applicant.

CORAM: K.K. TATED, J.
DATED : FEBRUARY 4, 2015

PC. :

1. Heard the learned counsel for the Applicant. Though the Respondents are served, none appeared for them.

2. This Application is preferred by original Respondent No.2 Insurance Co. for condonation of 189 days delay in filing the appeal challenging the judgment and award dated 30/10/2013 passed by the Chairman, MACT Kolhapur in MACP No.465/2010.

3. The learned counsel for the Applicant submits that before filing the appeal, they had to take legal opinion and sanction from various Departments. Hence, there is delay in filing the appeal. In support of this contention, he relies on paragraph 3 of the Civil Application which reads thus:

“3. The Applicant states that the filing of appeal was delayed due to extensive legal consultations owing to sharp differences between the legal experts on certain vexed legal issues. Ultimately the file was sent to the Head Office, which advised to file appeal. The entire process has taken considerably long time, which resulted in present delay.”

4. The learned counsel for the Applicant submits that the Applicant has good chance of success in the present matter. If delay is not condoned, irreparable loss and injury will be caused to the Applicant. Hence, this Hon'ble Court be pleased to allow the Civil Application.

5. In the present proceedings, the impugned award was passed by the Tribunal on 30/10/2013. The Applicant applied for certified copy on 07/11/2013 and same was ready for delivery on 30/11/2013. The present appeal is filed by the Applicant before this court on 28/08/2014. It is to be noted that though the certified copy of the impugned order was collected by the Applicant on 30/11/2013, the appeal is filed on 28/08/2014. There is no explanation in the Civil Application for 189 days delay in filing the appeal after collecting the certified copy. The reasons given by the Applicant in paragraph 3 that they had to take legal opinion as well as sanction from several Officers cannot be treated as sufficient ground for condonation of 189 days delay.

6. This Court in the matter of **Laxman Divekar Vs. State of Maharashtra 1998 (1) Mh.L.J 745** held that Court has no power to arbitrarily condone the delay in the name of advancing substantial justice just because the applicant happen to be a Corporation. This

court, further in the matter of **Special Land Acquisition Officer & Anr. Vs Jose Prezares De Piedade Pinto, 2006(2) Bom.C.R 773** held that delay caused due to movement of file from one table to another cannot be a reason for condonation of delay.

7. The Apex Court in the matter of **Damodar Pillai Vs. South Indian Bank Ltd, 2005(5) All.M.R. 961 (SC)** held that hardship or injustice is not a ground for extending the period of limitation. The Apex Court further in the matter of **Pundlik Jalam Patil Vs. Ex.Engg. Jalgaon Medium Project and Ors, 2008(6) BCR 513** held that unless and until sufficient cause is shown, inordinate delay should not be condoned. In the matter of Commissioner, **Nagar Parishad, Bhilwara Vs. Labour Court, Bhilwara & Anr, 2009(3) SCC pg 525** the Apex Court held that while dismissing an Appeal on the ground of limitation, going into the merits of the case is not allowed.

8. The Apex Court in the matter of **Oriental Aroma Chemical Industries Limited Vs. Gujarat Industrial Development Corporation reported in 2010 (5) SCC 459**, held that in the absence of sufficient cause, Court should not condone the delay. In the case of **B. Madhuri Gaud Vs. B. Damodar Reddy, 2012 (12) SCC 693** the Apex Court held that if sufficient cause is not shown, delay should not be condoned. Recently, the Apex Court in the matter of **Esha Bhattacharjee Vs. Managing Committee of Raghunathpur Nafar Academy 2013(12) S.C 450** held that if sufficient cause is not shown, application for condonation of delay needs to be rejected.

9. Considering the above mentioned facts and the law declared by the Apex Court, I am of the view that the Applicant has failed to disclose sufficient cause for condonation of 189 days delay in filing the appeal.

10. Hence, the Civil Application is rejected.

11. In view of rejection of the Civil Application for condonation of delay, the registration of the present appeal is rejected.

12. In view of dismissal of the Civil Application for condonation of delay and rejection of registration of the First Appeal, the Civil Application for stay does not survive. Hence, the same stands dismissed.

13. Refund of Court Fees as per Rules.

14. The Applicant is entitled to refund of Rs.25,000/- along with accrued interest deposited by them at the time of filing of the appeal, without furnishing any security.

(K.K. TATED, J.)