

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.448 OF 2014**

**IN**

**CIVIL REVISION APPLICATION (STAMP) NO.11303 OF 2014**

**M/s. Siddhi Vinayak Construction Co.**

**.. Applicant**

**Versus**

**Somnath Madhav Joshi and another**

**.. Respondents**

**Shri. Sanskar Marathe, for the Applicant.**

**Shri. Prashant D. Patil, for the Respondent No.1.**

**CORAM : R.M. SAVANT, J.**

**DATE : 09<sup>th</sup> MARCH, 2015**

**PC.**

1. The above Civil Application has been filed for condonation of delay of 91 days in filing the Civil Revision Application. The reasons therefor are mentioned in paragraphs 8 to 10 of the Civil Application. The sum and substance of the reasons is that the advocate appointed by the applicant could not keep a track of the matter upon which the impugned order was passed on 14.10.2013. It is further averred that the Applicant thereafter was preoccupied with his business and therefore could not take steps to file the Civil Revision Application to challenge the impugned order, resulting in the delay of 91 days in filing the above Civil Revision Application. The above Civil Application is opposed on behalf of the

Respondent No.1 by filing affidavit in reply. The reasons mentioned in paragraphs 8 to 10 are sought to be questioned. The reasons mentioned in paragraphs 8 to 10 can be said to be the plausible reasons for the delay of 91 days having occasioned in filing the above Civil Revision Application. Having regard to the well settled dictum that a party should be given an opportunity to prosecute the matter on merits rather than being thrown out on technicalities, in my view, it would be just and proper to allow the above Civil Application and condone the delay of 91 days in filing the above Civil Revision Application. The Civil Application is allowed in terms of prayer clause (a). Resultantly, the delay of 91 days to stand condoned. In the facts and circumstances of the case, the Applicant to pay costs of Rs.2000/-. The Learned Counsel appearing for the Respondent No.1 states that the same may be paid over to the Kirtikar Law Library. The applicant therefore to deposit the said costs with the Kirtikar Law Library within two weeks and obtain receipt for the same and file the same in the proceedings. The Civil Application to accordingly stand disposed of. List the Civil Revision Application for admission on 23<sup>rd</sup> March, 2015. The order dated 16<sup>th</sup> January, 2015 to continue until then.

**[R.M. SAVANT, J]**