

IN THE HIGH COURT OF JUDICATURE AT MUMBAI
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.272 OF 2015
IN
CIVIL REVISION APPLICATION (ST.) NO.11905 OF 2015
IN
FIRST APPEAL (ST.) NO.26116 OF 2011

State of Maharashtra and another ... Applicants
Vs.
Vishambar Y. Patil and others ... Respondents

CORAM : R. G. KETKAR, J.
DATE : 17TH JULY, 2015

P.C. :

Heard Mr. Patil, learned AGP for Applicants.

2. The above Civil Application has been filed for condonation of delay in filing the Civil Revision Application. The delay is of 1 year and 184 days. The cause for filing the above Civil Revision Application is the conditional order passed in the above First Appeal by the learned Registrar (Judicial-I) on 22.09.2011 in the First Appeals. The said conditional order is to the following effect:

“Two weeks time granted to pay deficit court fees, failing which registration shall automatically stand refused.”

It is on account of non-compliance of the said conditional order, the same became operative and resultantly, the registration of the First Appeal stood refused.

3. The order passed by the learned Registrar (Judicial-I) is referable to Rule 4 (vi) of Chapter V of High Court (Appellate Side) Rules. Against such an order, there is a remedy of revision provided by Rule 6 of the same Chapter. The said Rule provides that against the order passed by the learned Registrar refusing registration of any matter under the foregoing Rule, the same shall be revisable upon a regular stamp

application, which shall be filed within 7 days from the date of the order.

4. It is required to be noted that the First Appeal was filed by the applicants i.e. the State of Maharashtra and the Acquiring Body on the payment of the nominal Court fees. In identical fact situations, three learned Judges of this Court have come to a conclusion that notice to other side in so far as the condonation of delay in filing the Civil Revision Applications, which have been filed for setting aside the conditional order of the learned Registrar, Judicial (I) of this Court is not required. The last of the orders is the order dated 16.12.2014 passed by this Court in Civil Application No.678 of 2014 in Civil Revision Application (St.) No.21605 of 2014 and companion matters.

5. The above Civil Revision Application has been filed by the applicants for restoration of the First Appeal. In the light of the aforesaid precedents and considering the averments made in the above Civil Application, the Civil Application for condonation of delay in filing the Civil Revision Application is required to be made absolute and is accordingly made absolute in terms of prayer clause (b) of the above Civil Application.

6. The above Civil Revision Application for restoration of the First Appeal is also required to be allowed and is accordingly allowed in terms of prayer clause (b) in the Civil Revision Application. Resultantly, the First Appeal is restored to file. On restoration of the First Appeal, the State to deposit the deficit Court fees within a period of 8 weeks from today.

7. The above Civil Application and the Civil Revision Application are accordingly disposed of.

(R. G. KETKAR, J.)