

FARAD CONTINUATION SHEET

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 230 OF 2015
IN
CIVIL REVISION APPLICATION (STAMP) NO. 13102 OF 2014

Office Notes, Office
memorandum of Coram,
appearance, Court's
orders or directions &
Registrar's orders.

Court's or
Judge's orders.

Ms N. S. Moily for Applicant.
Mr. Rajesh Datar for Respondent.

CORAM : M. S. SONAK, J.
DATE : 30 JUNE 2015

P.C. :-

1] In pursuance of order dated 15 June 2015, affidavit has been filed. The affidavit is quite vague, but it does state that the constituted attorney for the applicant, who was to pursue the matter, had to leave for his native place for urgent work and to remain there for a period of two months or thereabouts. Further, there is a statement that the attorney was suffering from fever and treated for double malaria. All this attributed to delay of about 179 days in preferring the CRA.

2] The respondent has filed replies opposing condonation and stating that the cause shown is by no means sufficient. The learned counsel for the respondent pointed out that no details including *inter alia* the dates of sickness or medical records have been stated or produced

and therefore, the appreciation for condonation of delay deserves to be dismissed.

3] Taking into consideration the cause shown, including the quantum of delay, there is no reason to dismiss the application seeking condonation of delay. Cause has been shown and the prejudice that shall occasion the respondent can always be compensated by way of costs. True, as urged by the learned counsel for the respondent sufficient details ought to have been stated and there is some element of casualness in filing the application. Nevertheless, even this is not a reason why the applicant should be made to suffer dismissal of the CRA on the grounds that it came to be lodged about 179 days beyond the prescribed period of limitation.

4] Accordingly, delay is condoned subject to the applicant paying costs of Rs.10,000/- (Rupees Ten Thousand). Such costs to be paid to the respondent or deposited in this Court within a period of four weeks from today. Upon deposit, the respondent shall be at liberty to withdraw the same unconditionally. In case the costs are not paid or deposited, the application for condonation of delay should be deemed to have been rejected.

5] Civil application is disposed of in the aforesaid terms.

(M. S. SONAK, J.)