

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.4005 OF 2013
IN
FIRST APPEAL ST.NO.14343 OF 2012

Maharashtra Krishna Valley
Development Corporation .. Applicants
Versus
Mathurabai Bhagwant Hailkar & Ors. .. Respondents

Mr.V.S.Tadke for applicants
Mr.Tushar Sonawane for respondent No.1
Mr.Amit Palkar, AGP for State respondent Nos. 2 and 3

CORAM : K.K.TATED, J.
DATE : 20th March 2015.

P.C.

1] Heard learned Counsel for the parties. This application is for condonation of the delay of 4 years and 113 days in filing first appeal challenging the judgement and award dated 29th September 2007 passed by the Reference Court in L.A.R.No. No.162 of 2000.

2] Learned Counsel for the applicants submits that as soon as the award was passed by the Reference Court, they immediately

applied for the certified copy on 3rd December 2010, which was ready for delivery on 21st February 2011. He submits that the certified copy of the judgement and award passed by the reference court was collected by them on 1st March 2011.

3] The learned Counsel submits that before filing of the first appeal, they had to take approval from several departments. Hence there is delay. In support of his contention, the learned Counsel for the applicants relied upon paras 3, 5 and 6 of the civil application. He submits that in the interest of justice, this Court be pleased to condone the delay. He submits that if delay is not condoned, irreparable loss will be caused to them. They have good chances of success in the present appeal.

4] On the other hand, the learned Counsel for respondent No.1 – claimant vehemently opposed the present civil application. He submits that the applicant has not shown sufficient cause for condonation of delay. He submits that though the reference court passed the judgement and award on 29th September 2007, the applicant applied for certified copy on 3rd December 2010. There is

no explanation in the civil application as to why it took more than three years for applying for certified copy of the judgement and award. He submits that the certified copy of the judgement and award passed by the Reference Court was collected on 1st March 2011 and the present first appeal was filed on 17th April 2012. There is no explanation in the civil application as to why the applicants took more than one year after collecting the certified copy to file first appeal. He, therefore, submits that the applicants have not shown sufficient cause to condone the delay and the application be dismissed.

5] Learned AGP appearing on behalf of State submits that in the interest of justice this Court be pleased to condone the delay.

6] I have heard the parties at length.

7] Admittedly, in the present civil application, the applicants have not shown sufficient cause as to why they took more than three years in applying for Certified copy of the judgement and award passed by the Reference Court. Not only that, even after collecting

the Certified copy of the impugned judgement and award, the applicants took more than one year to file first appeal. There is no explanation for this period also.

8] Our High 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.

9] 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.

10] Our High Court 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.

11] The Apex Court 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.

12] 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.

13] 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 be rejected.

14] In view of above mentioned facts and the law declared by the Apex Court I do not find any substance in the present Civil Application. Civil Application stands rejected.

(K.K.TATED, J.)

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Mr.V.S.Tadke for appellants
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CORAM : K.K.TATED, J.
DATE : 20th March 2015.

P.C.

1] In view of the dismissal of the Civil Application No.4005 of 2013 for condonation of delay in preferring first appeal, nothing survives in this first appeal. The present first appeal is rejected as infructuous. Refund of court fees as per rules.

(K.K.TATED, J)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.4006 OF 2012
IN
FIRST APPEAL ST.NO.14343 OF 2012

Maharashtra Krishna Valley
Development Corporation .. Applicants
Versus
Mathurabai Bhagwant Hailkar & Ors. .. Respondents

Mr.V.S.Tadke for applicants
Mr.Tushar Sonawane for respondent No.1
Mr.Amit Palkar, AGP for State respondent Nos. 2 and 3

CORAM : K.K.TATED, J.
DATE : 20th March 2015.

P.C.

1] In view of the dismissal of the civil application No.4005 of 2013, preferred for condonation of delay, nothing survives in this civil application for stay. The present application is, therefore, rejected as infructuous.

(K.K.TATED, J)