

THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.425 OF 2015
IN
CIVIL REVISION APPLICATION (STAMP) NO.14775 OF 2015

Mr. Sanjay son of Balkrishna Mohite.] ... Applicant

Versus

Mrs. Deepali Sanjay Mohite.] ... Respondent

Mr. R. N. Kachave for Applicant.

CORAM :- M. S. SONAK, J.
DATE :- OCTOBER 09, 2015

P. C. :-

1. By this Civil Application, the applicant seeks condonation of delay of 2 years and 301 days in instituting the Civil Revision Application against the order dated 19/03/2012 made by the Family Court at Bandra directing the applicant to pay maintenance of Rs.6,000/- per month to his wife and child.

2. The reasons set out for condonation of delay is that the applicant is suffering from hypertension and other health problems and therefore he was advised complete rest from 01/07/2014 and further, he was unable to collect the certified copy from his lawyer due

to communication gap with his lawyer. A medical certificate of Dr.Bhaves R. Shah dated 17/11/2014 has been appended which states that the applicant is suffering from hypertension and is advised not to travel on long tours from 01/07/2014.

3. In my judgment, no case is made out for condonation of delay which extends to 2 years and 301 days. The learned Counsel for applicant has admitted that the order impugned in the Civil Revision Application has not been complied with. The order was made on 19/03/2012. The Civil Revision Application has been instituted after delay of 2 years and 301 days, possibly because on the basis of pendency of this Civil Revision Application, the applicant is avoiding the implementation of the impugned order. As such, the cause shown, or for that matter, the delay involved in instituting the Civil Revision Application cannot be said to be *bona fide*. The very institution of the Civil Revision Application after inordinate delay of 2 years and 301 days is a dilatory strategy to avoid the implementation of the maintenance order. The reasons set out in the application do not constitute sufficient cause for condonation of such inordinate delay. The medical certificate is totally vague and at the highest, it advises applicant not to travel on long tours. From the cause title, it is clear that the applicant resides in Mumbai itself. Therefore, even if the medical certificate is accepted, the same is no reason not to file the Civil Revision Application until expiry of 2 years and 301 days from the date of expiry of period of limitation. In the application, there is also some reference to applicant's mother being admitted in the

hospital from 18/08/2010 to 10/09/2010 and the applicant's travel to his native place from 11th September to 13th September. These reasons are irrelevant, particularly because the order made in the Civil Revision Application was made on 19/03/2012. The reason that the applicant was unable to obtain certified copy of the order on account of communication gap with his lawyer, is hardly sufficient to explain the delay of 2 years and 301 days, particularly in the matter of this nature. The entire purpose of instituting the Civil Revision Application after so much delay is only to avoid the liability of payment of maintenance. The cause shown is not at all *bona fide* and therefore, cannot be accepted.

4. The Civil Application seeking condonation of delay is dismissed with costs which are assessed at Rs.20,000/- (Rupees Twenty Thousand Only). The Family Court to ensure that such costs are paid by the applicant within a period of four weeks from today. The applicant is directed to place the authenticated copy of this order before the Family Court on the next date of hearing. The Registry is also directed to place a copy of this order before the Family Court at Bandra in Petition No.A-2208 of 2011 within a period of two weeks from today.

5. Consequently, the Civil Revision Application is also dismissed.

(M. S. SONAK, J.)