

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.5 OF 2015
IN
CIVIL REVISION APPLICATION ST.NO.19828 OF 2014
IN
FIRST APPEAL St. NO. 14228 OF 2013**

The State of Maharashtra & Ors.

..Applicants

Vs.

Baburao Deoram Gaikwad

..Respondent

**WITH
CIVIL APPLICATION NO.6 OF 2015
IN
CIVIL REVISION APPLICATION ST.NO.19835 OF 2014
IN
FIRST APPEAL St. NO. 14231 OF 2013**

The State of Maharashtra & Ors.

..Applicants

Vs.

Pandurang Deoram Gaikwad & Ors.

..Respondents

Mr. Anand Patil AGP for the Applicant

**CORAM : R. M. SAVANT, J.
DATE : 14th JANUARY, 2015**

P.C.

1 The above Civil Applications have been filed for condonation of delay in the filing the Civil Revision Applications. The said delay is of 105 days. The cause for filing the above Civil Revision Applications is the conditional order passed on 19/03/2014 in the above group of First Appeals by the learned Registrar (Judicial-I) in each of the First Appeals. The said conditional order is to the following effect :-

“Time of Two weeks granted to pay deficit Court Fee. If deficit Court Fees is not paid within given period the

registration shall 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 Appeals stood refused.

2 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 forgoing rule, the same shall be revisable upon a regular stamp application which shall be filed within 7 days from the date of the order.

3 It is required to be noted that the First Appeals were filed by the Applicants i.e. the State of Maharashtra and the Acquiring Body on the payment of the nominal court fees. However, as per the statement made in the Applications for condonation of delay, the acquiring body has deposited demand drafts towards the payment of the deficit court fees with the office of the Government Pleader, High Court, Mumbai. Hence in so far as the court fees are concerned, the same have now been provided for by the State Government. The reasons why the delay has occasioned in filing the above Applications for condonation of delay have been mentioned in the above Civil Applications. 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 7th January 2015 passed by this Court in Civil Application No. 694 of 2014 in Civil Revision Application St. No. 9794 of 2014 and companion matters.

4 The above Civil Revision Applications have been filed by the Applicants for restoration of the First Appeals. In the light of the aforesaid precedents and considering the averments made in the above Civil Applications, the Civil Applications for condonation of delay in filing the Civil Revision Applications are required to be made absolute and are accordingly made absolute in terms of prayer clause (b) of each of the above Civil Applications.

5 The above Civil Revision Applications for restoration of the First Appeals are also required to be allowed and are accordingly allowed in terms of prayer clause (b) in each of the Civil Revision Applications. Resultantly the First Appeals are restored to file. On restoration of the First Appeals, the State to deposit the deficit court fees within a period of 8 weeks from date.

6 The above Civil Applications and the Civil Revision Applications to accordingly stand disposed of.

[R.M.SAVANT, J]