

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE SIDE JURISDICTION.

CIVIL APPLICATION NO.1210/2015
IN
SECOND APPEAL (ST) NO.21166/2015

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. Sudam Kale for the Applicant
Ms. Anita Bhaktwani for the Respondent.

CORAM : K. K. TATED, J.
DATE : SEPTEMBER 11, 2015

P.C.:

1. Heard. This Application is made by the Defendant for condonation of 39 days delay in filing the Second Appeal challenging the judgment and decree dated 26/03/2015 passed by the Appellate Court in Civil Misc. Application No.364/2014 rejecting the Defendant's Application for condonation of delay.

2. The learned counsel for the Applicant submits that initially, they filed Writ Petition on 17/04/2015 which was allowed to be withdrawn by this court on 22/07/2015 with permission to the Defendant to file appropriate proceedings. As such there is delay in filing the Second Appeal. He

submits that the Applicant has good chance of success in the matter. He submits that if the delay is not condoned, irreparable loss, harm and injury will be caused to the Applicant.

3. On the other hand, the learned counsel for the Respondent Plaintiff vehemently opposed the Civil Application. She submits that the Applicant has not shown sufficient cause for condonation of delay. Even there was delay of one and half month on the part of the Defendant in filing the Writ Petition No.4940/2015. She submits that the Defendant failed to make out sufficient cause for condonation of delay. There is no question of entertaining the Civil Application. Same be dismissed with costs.

4. Heard the learned counsel for the parties at length. Earlier, the Defendant filed Writ Petition challenging the impugned order passed by the Appellate Court which was withdrawn by the Defendant on 22/07/2015 with liberty to file appropriate proceedings.

5. Considering these facts and reasons disclosed by the Applicant, I am satisfied that the Applicant has made out a case for allowing Civil Application.

At the same time, the Applicant has to pay cost of Rs.5000/- to the Respondent Plaintiff. Hence, following order is passed:

- a. Delay in filing the Second Appeal is condoned.
- b. The Applicant, either to deposit in the Registry or pay to the Respondent cost of Rs.5000/- within 4 weeks from today, failing which the Civil Application shall stand dismissed without further reference to the court.
- c. Civil application stands disposed off accordingly.

JUDGE

CERTIFICATE

Certified to be true and correct copy of the original
signed order.