

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2962 OF 2015
with
CIVIL APPLICATION NO.2963 OF 2015
IN
FIRST APPEAL st. NO.22127 OF 2015

Bombay Dyeing & Manufacturing Co. Ltd. ... Applicant

Vs.

Damodar Keshav Bene ... Respondent

Mr.G.S. Godbole i/b Negandhi Shah & Himayatullaha for the Applicant
Ms.K.C. Nichani for Respondent

CORAM: MRS.MRIDULA BHATKAR, J.

DATE: 11th SEPTEMBER, 2015

PC.:

1. The application is moved for condonation of delay of 54 days in filing the appeal. The learned Counsel for the applicant submits that there was a confusion in respect of appeal period as under the Limitation Act, the period is 90 days for filing first appeal and as per the provisions of the City Civil Court Act, it is 30 days. Therefore, the delay has been caused of 54 days.

2. The learned Counsel for the respondent opposes the application on the ground that no just cause is made out.

3. Considering the reasons given in paragraphs 5 and 6, which is also argued by the learned Counsel, I am inclined to allow the application, as just and sufficient cause is made out. Accordingly, the delay of 54 days is condoned. Civil Application is disposed of accordingly.

CIVIL APPLICATION NO.2963 OF 2015

4. This Civil Application No.2963 of 2015 is filed for an order of injunction as prayed in prayer clause (a) of the Civil Application. The learned Counsel for the respondent opposes the application. However, it is pointed out that in Notice of Motion No.931 of 1985 in Suit No.602 of 1985 by order dated 1.10.1985, the learned Single Judge of this Court had passed the order 'by consent Notice of Motion made absolute in terms of prayer (b) excluding words "dealing with". In view of this, the same order to continue pending admission.

5. List the appeal for admission on 23.9.2015 alongwith the Civil Application for stay.

(MRIDULA BHATKAR, J.)

CERTIFICATE

Certified that this Judgment/Order uploaded is a true and correct copy of original signed Judgment / Order.