

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.3179 OF 2015
IN
FIRST APPEAL st. NO.23038 OF 2015

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

Vs.

Rawi Kumar Puri ... Respondent

Mr.G.S. Godbole i/b Negandhi Shah & Himayatullah for the Applicant
Mr.Paritosh Jaiswal a/w Kishor Vussonje and Ms.Apeksha i/b M/s.Kanga &
co. for Respondent

CORAM: MRS.MRIDULA BHATKAR, J.

DATE: 30th SEPTEMBER, 2015

P.C.:

1. The application No.3179 of 2015 is moved for condonation of delay of 40 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 of 40 days has been caused.

2. The learned Counsel for the respondent opposes the application on the ground that no just cause is made out. He submitted that ignorance of law cannot be a ground. In support of his submission, he relied on the

judgements in **Sitaram paraji vs. Nimba Valad Harishet**¹; **Ramji Lal vs. Lakshmi Chand-Hingan Lal**²; **Nandu vs. Bhuwanoo**³; **Seth Bhawarlal & Ors. vs. Lachmandas**⁴; **Sitaram Ramcharan & Ors. vs. M.N. Nagrasahna & anr.**⁵ and in the case of **Ramlal, Motilal and Chhotelal vs. Rewa Coalfields Ltd.**⁶

3. There can be confusion in respect of applying a particular act to the facts of the case. In the case of **Sitrama Ramchran & Ors. (supra)**, the Division Bench of the Bombay High court has made a distinction between ignorance of law and mistake of law. The ignorance of law has not been held as an excuse and sufficient cause to condone delay and mistake of law is mistake in establishing those rights. For instance, going to one forum instead of another. In such cases, the party knows his rights and wants to assert the right. However, due to mistake in understanding the provisions of law, there is a default. Thus, the present case falls in the mistake of law in applying the provisions of Limitation Act and, therefore, the ratio laid down in the other judgements cited by the learned Counsel for the respondents is not applicable. Therefore, the submission of the learned Counsel for the Respondent cannot be accepted and the ratio laid down in

1 ILR 1888 12 Bom 320

2 1925 Lahore 602

3 AIR 1929 Nagpur 74

4 AIR 1929 Nagpur 75

5 AIR 1954 BOMBAY 537 (Vol.41, C.N. 140)

6 (1962) 2 SCR 762

the respective rulings cited by the learned Counsel are also not applicable to the present set of facts. Hence, considering the reasons given in the Civil Application, I am inclined to allow the application, as just and sufficient cause is made out. Accordingly, the delay of 40 days is condoned. Appeal be numbered.

4. Civil Application is disposed of accordingly.

(MRIDULA BHATKAR, J.)