

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 475 OF 2014
IN
SECOND APPEAL (ST) NO. 29212 OF 2013**

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	
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Mr. Manoj D. Randive applicant in-person present.

Ms. Shivani Samel, Advocate for Respondent no.2.

**CORAM: R.G.KETKAR, J.
DATE : 24/04/2015**

PC:

1. Heard Mr. Manoj Randive, applicant in-person and Ms. Shivani Samel, learned counsel for respondent no.2.

2. This is an application for condonation of delay of 324 days in filing Second Appeal. Mr. Manoj Randive appears in-person. He submitted that by order dated 13.8.2012, learned District Judge Mangaon dismissed Appeal. Aggrieved by that decision, he had instituted Writ Petition No.9654 of 2012 in this Court. By order dated 30.9.2013, Writ Petition was disposed of on the

ground of maintainability, reserving liberty to the applicant to adopt appropriate proceedings. He submitted that accordingly he has instituted Second Appeal in this Court and, therefore, time spent by the applicant in prosecuting writ petition may be excluded as he was bonafide prosecuting the said proceedings.

3. On the other hand, Ms. Samel opposed the application on the ground that the delay is of 324 days and no sufficient cause is made out.

4. Having regard to the fact that the applicant has initially instituted Writ Petition in this Court in the year 2012 which was disposed of 30.9.2013, reserving liberty to him to institute appropriate proceedings, in my opinion, the time spent by him in prosecuting the writ petition deserves to be excluded as, in my opinion, the applicant was prosecuting writ petition bonafide.

5. In view thereof and for the reasons

stated in the application, I am satisfied that the applicant has made out sufficient cause for condoning the delay. Hence, Civil Application is allowed in terms of prayer clause (a) with no order as to costs.

6. As far as prayer clause (b) is concerned, the applicant is given 12 weeks time for filing certified copy of Judgment and decrees of the trial Court, Appellate Court as also Appeal Memo, if not already filed. Office is directed to register Appeal, if it is otherwise ready.

(R.G.KETKAR, J.)