

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.11530 OF 2014

**M/s. Indian Oil Corporation Limited,
a Company registered under the
Companies Act 1956, having its
registered Office at G-9,
Ali Yavar Jung Marg,
Bandra (E), Mumbai 400 051 and
Maharashtra State Office at
Indian Oil Bhavan, Plot No.C-33,
“G” Block, Bandra Kurla Complex,
Bandra (E), Mumbai-400 051**

.. Petitioner

Versus

- 1. Mrs. Nilima Vijay Gorad,
Aged about 44 years,
Occupation-Business,
R/o Mhasume, Tal-Khatav,
Dist-Satara,**
- 2. Mrs. Sangita Chandrakant Aundhe,
aged about 35 years,
Occupation-Business,
R/o-Mhasume, Tal-Khatav, Dist-Satara**

.. Respondents

Mr. Sunil Gangan i/by RMG Law Associates, for the Petitioner.

Mr. A. S. Suryawanshi, for the Respondent No.2.

Mr. S. P. Dighe i/by Mr. M. S. Athalye, for the Respondent No.1.

CORAM : R.M. SAVANT, J.

DATE : 15th SEPTEMBER, 2015

ORAL JUDGMENT

1. Rule, with the consent of the Learned Counsel for the parties made returnable forthwith and heard.

2. The Writ Jurisdiction of this Court is invoked against the order dated 07.08.2014 passed by the Learned District Judge-18, Pune, by which order the application being Civil Misc. Application No.580 of 2014 filed by the Petitioner for condonation of delay of 39 days in filing the Appeal in the District Court came to be rejected.

3. It is not necessary to burden this order with unnecessary details. Suffice it would be to state that the Petitioner who is the original Defendant in the suit in question aggrieved by the interim order dated 21.04.2014 passed in Regular Civil Suit No.532 of 2014 was desirous of filing an Appeal against the said order. In view of the fact that there was a delay of 39 days in filing the Appeal that the instant application being Civil Misc. Application No.580 of 2014 came to be filed seeking condonation of the said delay on the grounds mentioned in the application. The condonation of delay was sought inter-alia on the ground that some time was lost in arriving at a decision whether to file an Appeal

or not and that the concerned officer of the Corporation was not available and therefore there is delay of 39 days in filing the Appeal. The said application was considered by the Lower Appellate Court which by the impugned order dated 07.08.2014 has rejected the same. The reason put forth by the Petitioner that the concerned officer was not available for filing the Appeal did not commend acceptance to the Lower Appellate Court which termed it as not a genuine reason and rejected the said application.

4. In so far as the matters of condonation of delay are concerned, it is well settled that a highly technical and pedantic approach is to be avoided and an approach which furthers the cause of substantial justice is to be adopted. The fact that the Petitioner i.e. Applicant before the Lower Appellate Court is a Public Corporation also cannot be lost sight of as judicial notice can be taken of the fact that in so far as the Public Corporations are concerned, some time is lost in arriving at a decision whether to challenge a particular order in the higher forum. The fact also cannot be lost sight of that the officers keep on changing as also at times the officers are not available at the place where the decision is required to be taken. If the said yardstick is applied as also if the extent of delay in the present matter is considered i.e. 39 days, in my view, the Trial Court has erred in not exercising jurisdiction as it is always desirable that a party

should be given an opportunity to prosecute its remedy on merits rather than being thrown out on technicalities. In my view, therefore, the impugned order dated 07.08.2014 is required to be quashed and set aside and is accordingly quashed and set aside. The application in turn would stand allowed. The Lower Appellate Court is directed to number the Appeal and decide the same expeditiously. The Petition is allowed to the aforesaid extent. Rule is accordingly made absolute with parties to bear their respective costs.

[R.M. SAVANT, J]

CERTIFICATE

Certified to be true and correct copy of the original signed
Judgment/Order.