

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

**CIVIL APPLICATION NO.162 OF 2015
IN
FIRST APPEAL (ST) NO.16736 OF 1998**

Adillon Synthetics PLtd. .. Applicant

vs.

Municipal Corporation of
Greater Mumbai and Anr. .. Respondents

Mr.Shrishailya Deshmukh for the applicant

Mrs.M.R.Bhoir for the BMC

**CORAM : K.K.TATED, J.
DATED : 29TH JANUARY, 2015**

PC:

- 1 Heard the learned counsel for the parties.
- 2 This application is for restoration of First Appeal by condoning the delay which was rejected on 25.4.2000.
- 3 The learned counsel for the applicant submits that the applicant by letter dt.11.10.14 called upon the previous advocate K.B.Nambiar to return all the papers as he was not looking after that matter. Pursuant to the said letter, Advocate Mr.K.B.Nambiar by his

letter dated 25.11.2014 returned all the papers to the applicant. Thereafter on enquiry he learnt that the matter is already rejected on 25.4.2000. Thereafter they preferred the present Civil Application for restoration of First Appeal.

4 The learned counsel for the applicant submits that applicant has good chance of success in the present matter. He submits that if Civil Application is not allowed, irreparable loss and injury will be caused to them.

5 On the other hand, the learned counsel for the respondent Corporation vehemently opposed the present Civil Application. She submits that applicant has not shown sufficient cause for condonation of more than 15 years in preferring the present Civil Application. Hence, there is no substance in the Civil Application. Same be dismissed.

6 I have heard both the sides at length. It is to be noted that in the present proceeding, First Appeal stand rejected on 25.4.2000 on stamp number itself along with Civil Application. Advocate placed on record the order dated 25.4.2000 by which First Appeal stand rejected. In the entire Civil Application, applicant has not disclosed when they contacted their advocate for filing the First Appeal in this court in 2000. Even the applicant has not disclosed what action they have taken against their previous advocate.

7 Considering these facts and the reasons disclosed by the

applicant in Civil Application, I do not find any reason to condone more than 15 years delay in preferring the present Civil Application.

8 Our High Court in the matter of **Laxman Divekar Vs. State of Maharashtra 1998 (1) Mh.L.J 745** held that Court has no power to arbitrarily condone the delay in the name of advancing substantial justice just because the applicant happen to be a Corporation.

9 The Apex Court in the matter of **Damodar Pillai Vs. South Indian Bank Ltd, 2005(5) All.M.R. 961 (SC)** held that hardship or injustice is not a ground for extending the period of limitation.

10 The Apex Court in the matter of **Oriental Aroma Chemical Industries Limited Vs. Gujarat Industrial Development Corporation reported in 2010 (5) SCC 459**, held that in the absence of sufficient cause, Court should not condone the delay.

11 The Apex Court in the case of **B. Madhuri Gaud Vs. B. Damodar Reddy, 2012 (12) SCC 693** held that if sufficient cause is not shown, delay should not be condoned.

12 Recently, the Apex Court in the matter of **Esha Bhattacharajee Vs. Managing Committee of Raghunathpur Nafar Academy 2013(12) S.C 450** held that if sufficient cause is not shown, application for condonation of delay be rejected.

13 In view of above mentioned facts and the law declared by the Apex Court, I do not find any reason to entertain the present Civil Application.

14 Civil Application is rejected.

(K.K.TATED, J.)