

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.69 OF 2015
IN
CIVIL REVISION APPLICATION ST.NO.33480 OF 2014
IN
FIRST APPEAL ST.NO.12326 OF 2014

The State of Maharashtra

...Applicant

Vs.

Shri. Namdeo Yeshwant Gharat and another

...Respondents

Mr. Anand Patil AGP for the Applicants

CORAM : R. M. SAVANT, J.

DATE : 16th JANUARY, 2015

P.C.

1 The above Civil Application has been filed for condonation of delay in the filing the Civil Revision Application. The said delay is of 212 days. The cause for filing the above Civil Revision Application is the conditional order passed on 10/04/2014 in the above First Appeal by the learned Registrar (Judicial-I) in the First Appeal. The said conditional order is to the following effect :-

“Time of Two weeks granted to pay deficit Court Fee. If deficit Court Fees is not paid within given period the registration shall stand refused”

It is on account of non-compliance of the said conditional order the same became operative and resultantly the registration of the First Appeal stood refused.

2 The order passed by the Learned Registrar Judicial (I) is referable

to Rule 4 (vi) of Chapter V of High Court (Appellate Side) Rules against such an order there is a remedy of revision provided by Rule 6 of the same Chapter. The said Rule provides that against the order passed by the Learned Registrar refusing registration of any matter under the forgoing rule, the same shall be revisable upon a regular stamp application which shall be filed within 7 days from the date of the order.

3 It is required to be noted that the First Appeal was filed by the Applicants i.e. the State of Maharashtra and the Acquiring Body on the payment of the nominal court fees. However, as per the statement made in the Application for condonation of delay, the acquiring body has deposited demand drafts towards the payment of the deficit court fees with the office of the Government Pleader, High Court, Mumbai. Hence in so far as the court fees are concerned, the same have now been provided for by the State Government. The reasons why the delay has occasioned in filing the above Application for condonation of delay have been mentioned in the above Civil Application. In identical fact situations, three Learned Judges of this Court have come to a conclusion that notice to other side in so far as the condonation of delay in filing the Civil Revision Application which have been filed for setting aside the conditional order of the Learned Registrar Judicial (I) of this Court is not required. The last of the order is the order dated 15th January 2015 passed by this Court in Civil Application No. 28 of 2015 in Civil Revision Application St. No. 32126 of 2014 and companion matters.

4 The above Civil Revision Application has been filed by the Applicants for restoration of the First Appeal. In the light of the aforesaid precedents and considering the averments made in the above Civil Application, the Civil Application for condonation of delay in filing the Civil Revision Application is required to be made absolute and is accordingly made absolute in terms of prayer clause (b) of the above Civil Application.

5 The above Civil Revision Application for restoration of the First Appeal is also required to be allowed and is accordingly allowed in terms of prayer clause (b) in the Civil Revision Application. Resultantly the First Appeal is restored to file. On restoration of the First Appeal, the State to deposit the deficit court fees within a period of 8 weeks from date.

6 The above Civil Application and the Civil Revision Application to accordingly stands disposed of.

[R.M.SAVANT, J]