

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

**CIVIL APPLICATION NO.13 OF 2015
IN
FIRST APPEAL (ST). NO.33973 OF 2014**

The New India Assurance Co. Ltd. .. Applicant

Vs

Dattaram Balkrishna Narvekar and Anr. .. Respondent

Mr.A.Z.Mookhtiar for the applicant

**CORAM : K.K.TATED, J.
DATED : 20TH JANUARY, 2015**

PC:

1 Not on board. At the request of Advocate for the applicant, matter is taken on board for urgent orders.

2 This application is preferred by original opponent no.2 Insurance Company for condonation of 245 days delay in filing First Appeal challenging the judgement and award dated 3.9.2013 passed by MACT, Vasai in MACP No.106 of 2008 awarding compensation of Rs.1,14,250/- to the respondents original claimants along with 7% interest p.a.

3 The learned counsel for the applicant submits that they had to take approval from the several authorities and therefore there

is delay in preferring the present First Appeal. In support of this contention, the learned counsel for the applicant relies on paragraph 4 of the Civil Application. On the basis of these facts, the learned counsel for the applicant submits that this Honourable Court be pleased to condone the delay in preferring the First Appeal. He submits that applicant has good chance of success in the present matter. He submits that if delay is not condoned, irreparable loss and injury will be caused to the applicant.

4 I have heard the learned counsel for the applicant at length. It is to be noted that in the present proceeding, the Tribunal passed impugned Judgment and Award on 3.9.2013. Thereafter, the applicant applied for certified copy of judgment and award on 17.9.2013 and same were ready for delivery on 22.10.2013. The applicant collected the same on the same day. Thereafter, the applicant filed the present First Appeal on 18.12.2014. In the meanwhile, the respondent original claimant filed Execution Application No.120 of 2014 which was duly served on the applicant on 5.11.2014. The explanation given by the applicant in paragraph 4 cannot be treated as sufficient cause for condonation of delay.

5 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.

6 Our High Court in the matter of **Special Land**

Acquisition Officer & Anr. Vs Jose Prezares De Piedade Pinto, 2006(2) Bom.C.R 773 held that delay caused due to movement of file from one table to another cannot be a reason for condonation of delay.

7 The Apex Court in the matter of **Pundlik Jalam Patil Vs. Ex.Engg. Jalgaon Medium Project and Ors, 2008(6) BCR 513** held that unless and until sufficient cause is shown, inordinate delay should not be condoned.

8 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.

9 The Apex Court in the matter of **Maniben Devraj Shah Vs. Municipal Corporation of Brihan, Mumbai reported in 2012 (5) SCC 157**, held that no premium be given for total lethargy or utter negligence of State officers/machinery/agency/instrumentality and condonation of delay caused by such officer cannot be allowed as a matter of course by accepting the plea that dismissal on the ground of limitation will caused injury to public interest.

10 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.

11 The Apex Court in the matter of Office of **Chief Post Master General and Others Vs. Living Media India Ltd & Anr, 2012 All SCR 892** held that delay attributed in personal machinery and methodology, cannot be condoned in view of modern technology use.

12 Recently, the Apex Court in the matter of Esha Bhattacharjee 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 substance in the present Civil Application.

14 Civil Application is rejected.

(K.K.TATED, J.)