

IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 143 OF 2015

IN

STAMP NUMBER MAIN NO. 548 OF 2014

THE EXECUTIVE ENGINEER WORKS
DIVISION XV (NH) PWD, GOVT. OF GOA
AND 3 ORS.,

... Applicants

Versus

MR. P. B. IBRAHIM, CLASS-I, PWD
CONTRACTOR.

... Respondent

Ms. P. Kamat, Additional Govt. Advocate for the applicants.
Mr. Vibhav Amonkar, Advocate for the respondent.

Coram:- F. M. REIS, J.

Date:- 16th June, 2016

P.C.:

Heard Ms. P. Kamat, learned Addl. Govt. Advocate appearing for the applicants and Mr. V. Amonkar, learned Advocate appearing for the respondent.

2. This is an application for condonation of delay in preferring the first appeal challenging the Judgment and Decree passed by the learned Trial Judge. The ground for delay is essentially that the applicant had preferred a review application before the learned trial Judge of the impugned Judgment and Decree. The said review application came to be rejected on 8th April, 2013. Thereafter, the delay had occasioned because the learned Government Advocate had

not sought a copy of the impugned Judgment and Decree and ultimately, on account of administrative reasons, there was further delay in preferring the appeal, which came to be filed on 27th February, 2014.

3. The respondent has filed an elaborate reply, opposing the application for condonation of delay. It is pointed out that there is no sufficient cause shown by the applicants to condone the delay. It is further pointed out that the delay has not been sufficiently explained, nor the delay after the review application came to be disposed of, has been explained by any plausible reason. It is also pointed out that there is no corroborative material produced on record in support of the application.

4. Both the learned Counsel have submitted their respective stand based on the averments in the application and in the reply. The learned Counsel appearing for the applicants has also brought to my notice that the respondent has also preferred an appeal challenging refusal of the part of the impugned Judgment and Decree in this Court which has already been admitted.

5. Upon hearing the learned Counsel appearing for the respective parties, it cannot be disputed that the applications for condonation of delay are to be examined with a justice oriented approach. Though the learned Counsel appearing for the respondent

may be justified to contend that there was some lapse on the part of the applicants to show due diligence in taking steps to challenge the impugned Judgment and Decree, nevertheless, upon examining the overall facts and circumstances of the case, and the averments made in the application, which are supported by an affidavit, I find that, in the interest of justice, the application for condonation of delay deserves to be granted. It is to be noted that though the applicants, who are Government Authorities, are to be treated similarly with private litigants in making out a case of sufficient cause, nevertheless, what cannot be lost sight of is that in cases of the Government a public interest is also involved, as public exchequer would be affected in case delay is refused to be condoned.

6. In the peculiar facts of this case, I find that the delay deserves to be condoned, subject to the applicants paying costs of Rs.5,000/- to the respondent, as condition precedent. The application stands disposed of accordingly.

F. M. REIS, J.

ssm.