

IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 446 OF 2015

IN

STAMP NUMBER MAIN NO. 1588 OF 2015

MRS. LAURENCA SIQUEIRA PINTO AND
ANR.,

... Applicants

Versus

MR. DAVID GOMES AND 2 ORS.,

... Respondents

Mr. J. Abreu Lobo, Advocate for the applicants.

Mr. Amogh Prabhudessai, Advocate for the respondent no.2.

Coram:- K. L. WADANE, J.

Date:- 11th February, 2016

P.C.

Heard Mr. J. Abreu Lobo, the learned counsel appearing for the applicants and Mr. Prabhudessai, the learned counsel appearing for the respondent no.2.

2. The present application is filed by the applicants for condonation of delay caused for filing an appeal against the judgment and order passed by the learned District Judge-III, South Goa, Margao, in Regular Civil Appeal No.134/2013 dated 03/09/2014.

3. The grounds on which the delay is sought to be condoned are that the applicant no.1 is aged about 78 years and is not been keeping in good health over last few months. The applicant no.1 had been

suffering from chest congestion and breathing problems. Therefore, she was under the medical treatment at KLE hospital Belgaum and for that purpose she was required to visit the hospital at Belgaum for every three months. The applicant no.1 has also undergone heart bypass surgery due to which the applicant no.1 movements are restricted. The applicant no.1 being wife of the applicant no.2, he was attending the applicant no.1.

4. From the contents of the application, it appears that the applicants are old aged persons, therefore, obviously they are facing age related problems due to which they were unable to keep the track of the proceedings and its result. It is contended by the applicants that the applicant no.1 is suffering from heart disease therefore, he underwent bypass surgery.

5. As against this, Mr. Prabhudesai, learned Counsel appearing for the respondent no.2 argued that the grounds stated in the application appears to be false. Delay is not at all explained. Therefore, he prayed to dismiss the application.

6. It is well settled principle of law that while dealing with the application for the condonation of delay, the Court shall not take hyper technical view because the litigants are fighting for their right in movable and immovable property. Moreover, the delay caused in filing the appeal is only five months. Therefore, it can be condoned

by awarding certain costs. Therefore, five months delay caused in filing the appeal is hereby condoned, subject to the deposit of costs of Rs.1000/- to be paid to the respondent no.2 within a period of two weeks.

7. Application stands disposed of.

K. L. WADANE, J.

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