

IN THE HIGH COURT OF JUDICATURE AT MUMBAI

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.654 OF 2015

IN

CIVIL REVISION APPLICATION (ST.) NO.11154 OF 2015

Ramaben Laljibhai Kapadia (decd) and others ... Applicants

Vs.

Killick Nixon Limited and another ... Respondents

Mr. K. M. Sangani for Applicants.

Mr. Kevin A. Chettiar for Respondent No.1.

Mr. G. G. Ketkar, 1st Assistant to Court Receiver for Respondent No.2.

CORAM : R. G. KETKAR, J.

DATE : JANUARY 13, 2016

P.C. :

Heard Mr. Sangani, learned Counsel for applicants and Mr. Chettiar, learned Counsel for respondent No.1.

2. This is an application for condonation of delay of 36 days in filing the present C.R.A. Mr. Sangani submitted that initially, applicant filed Appeal from Order in this Court. On 02.12.2015, Appeal was heard and on the motion made by the applicant's Advocate, Appeal from Order was permitted to be converted into C.R.A. He further invited my attention to paragraph IV of the application and submitted that because of the sickness of applicant No.1, she could not file C.R.A. within limitation.

3. On the other hand, Mr. Chettiar opposed the application. He invited my attention to the affidavit dated 03.12.2015 of Mr. Avinash M. Khaire, authorized representative of the respondent No.1. He submitted that no sufficient cause is made out for condoning the delay. Apart from that, though in paragraph 4, it is contended that applicant No.1 was sick, no documentary evidence is produced substantiating the said ground.

He, therefore, submitted that application deserves to be dismissed. In any case, if the Court is inclined to condone the delay, the same may be condoned subject to cost.

4. Having regard to the fact that there is a delay of 36 days as also in view of the decision of the Apex Court in the case of ***State of Nagaland Vs. Lipok A. O.***, (2005) 3 SCC 752, I am of the opinion that delay deserves to be condoned, more so, when it is of 36 days.

5. In view thereof and for the reasons stated in the application, I am satisfied that applicants have made out sufficient cause for condoning the delay. Hence, Civil Application is allowed in terms of prayer clause (a) with no order as to cost. Office is directed to register the C.R.A., if it is otherwise ready.

(R. G. KETKAR, J.)

Minal Parab