

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

CIVIL APPLICATION NO.800 OF 2016

IN

APPEAL FROM ORDER STAMP NO.15168 OF 2016

**Shri. Swamy Hathiramji Mutt,
Tirupati, Chittoor District,
Andhra Pradesh**

.. Applicant/Appellant

Versus

**Kamlesh Kumar S/o Ram Janam Rai
and another**

.. Respondents

Mr. Ajay Basutkar for the Applicant/Appellant.

Mr. Y. B. Dandekar for the Respondent No.1.

Mr. S. G. Walan for the Respondent No.2.

CORAM : R.M. SAVANT, J.

DATE : 1st AUGUST 2016

PC.

1 The above Civil Application has been filed for condonation of delay of 60 days in filing the above Appeal from Order. The reasons therefor are appearing in paragraphs 6 and 8 of the Civil Application. The Respondent No.2 has filed an affidavit in reply opposing the above Civil Application. The Learned Counsel for the Respondents reiterates the case of the Respondents whilst opposing the above Civil Application. In my view, having regard to the reasons mentioned in paragraphs 6 and 8, they

can be said to be the plausible reasons for the said delay of 60 days occurring in filing the above Appeal from Order. It is well settled that a party should be given an opportunity to prosecute its remedy on its merit rather than being thrown out on technicalities. For the prejudice and inconvenience that may be caused to the Respondents, costs can be imposed on the Applicant. Hence, accepting the reasons mentioned in the Civil Application, the same is allowed. Resultantly, the delay of 60 days in filing the above Appeal from Order stands condoned. The Applicant to pay the Respondent No.2 cost in the sum of Rs.1000/- within two weeks from date. List the Appeal from Order for admission after three weeks.

[R.M. SAVANT, J]