

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

CIVIL APPLICATION NO. 3049 OF 2016

IN

FIRST APPEAL (ST.) NO. 16445 OF 2016

Reliance General Insurance Co.Ltd. ...Applicant

Versus

Shri. Vijaybahadur Rampyare Kewat & Anr. ...Respondents

Ms. Deepika Motagi, i/b Res Juris, for the Applicant.

Ms. Rina Kundu, for the Respondent No. 1.

**CORAM : R.M. SAVANT, J.
DATE : 2nd August 2016**

P.C. :

1. The above Civil Application has been filed for condonation of delay of 161 days in filing of the above First Appeal. The reasons therefore, are mentioned in paragraphs 3 and 7 of the Civil Application. The sum and substance of the reasons is that on account of the time taken to arrive at the administrative decision to file the Appeal that the delay has occurred. It has been mentioned

that the impugned judgment and order is dated 30th September 2015. However, the certified copy was applied for at 7th May 2016. The learned Counsel appearing on behalf of the Applicant during the course of hearing of the above Civil Application pointed out to this Court that it seems the Application for certified copy was made earlier which certified copy was furnished. However, the copy which was furnished, was torn at the place where the dates are appearing. Hence, a fresh Application for certified copy was made again on 7th May 2016. The aforesaid reasons are sought to be disputed by the the learned Counsel appearing for the Respondent No. 1. It was the submission of the the learned Counsel appearing that the second reason mentioned did not find a place in the above Civil Application. The Respondent No. 1 as also filed an Affidavit in Reply.

2. In my view, having regard to the reasons mentioned in paragraph 7, the said reason can be a plausible reason for the said delay of 161 days in filing the above First Appeal occurring. It is well settled that a party should be given a chance to prosecute its remedies on its merits rather than from being thrown out on technicalities. For the inconvenience and prejudice that is caused to the otherside, the same can be compensated by way of costs.

3. In my view, therefore, the above Civil Application is required to be allowed and is accordingly, allowed. Resultantly, the delay of 161 days in filing the above First Appeal stands condoned. In the facts and circumstances of the case, the Applicant to pay costs of Rs. 5,000/- to the Respondent No. 1 within four weeks from date.

4. List the above First Appeal for admission on 30th August 2016 along with the Civil Application No. 3050 of 2016 and Civil Application No. 3051 of 2016.

[R.M. SAVANT, J.]