

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

WRIT PETITION NO. 51 OF 2016

M/s. Well Chem Systems Engineering
Private Limited and anr. .. Petitioners.

V/s.
The South Indian Bank .. Respondent.

Mr. Uday Warunjikar for the Petitioners.

Mr. J.B. Navlani a/w. Kusumakar Kaushik for the Respondent.

**CORAM: DR. MANJULA CHELLUR, C.J.
AND M.S.SONAK, J.**

DATE : 27 SEPTEMBER 2016.

P.C.

1] The challenge in this petition is to the order dated 4 April 2007 dismissing the petitioners' application seeking condonation of delay in instituting the appeal before the Debts Recovery Appellate Tribunal (DRAT) at Mumbai.

2] Though, the impugned order was made by the DRAT on 4 April 2007, this petition has been instituted only on 18 July 2013, after inordinate delay of over six years. Mr. Warunjikar, learned counsel for the petitioners submits that the explanation for this delay is set out in paragraph 7 of the petition, which reads thus:

7. Now, the present petitioners herein are approaching this Hon'ble High Court by filing this Writ Petition challenging the said order. The petitioners herein could not approach this Hon'ble High Court immediately for the following reasons:

(A) *The petitioners submit that the petitioners were facing financial difficulty as well as present petitioner NO.2 herein was not well. He was taking prolonged treatment for his paralysis at Jahangir Hospital at Pune. He was also required to be admitted in the Hospital. MRI Scanning of the brain was also conducted. There was a problem about the eyes of present petitioner No.2 herein. Similarly, petitioner No.2 was operated for prostate.*

(B) *On the basis of the same, the petitioner submits that the petitioner herein could not approach this Hon'ble High Court immediately. However, it is submitted that the delay was unintentional and the same may be condoned.*

(C) *It is submitted that the petitioner herein is having very good case on merits and there is every possibility of success in the matter. In view of the same it is respectfully submitted that the delay in filing the above referred petition be condoned. The petitioners submit that even today the petitioner No.2 herein is taking medical treatment and consequently appropriate relief be granted in favour of the present petitioner herein.”*

3] According to us the aforesaid explanation does not constitute any sufficient cause, particularly considering that petitioner No.1 is a Private Limited Company and the delay in the present case is of over six years. There is no statement that there was no person other than petitioner No.2, who could have filed the petition to challenge the order dated 4 April 2007. There are neither any details furnished as to when petitioner No.2 was afflicted with paralysis nor are any medical records produced alongwith the petition. The explanation offered is vague, casual and inspires no confidence whatsoever.

4] This is not just a case of inordinate delay of over six years in institution of the petition, but this is the case of laches. In the long

interregnum of six years between making of the impugned order and the institution of the present petition, we are informed that the order made by the Debts Recovery Tribunal (DRT) on 20 December 2002 has been substantially executed. We are informed that the third party rights may also have been created.

5] In the aforesaid circumstances, we dismiss this petition as barred by inordinate and unexplained delay and laches.

(CHIEF JUSTICE)

(M.S.SONAK, J.)