

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

CIVIL APPLICATION NO.366 OF 2016

IN

APPEAL FROM ORDER STAMP NO.20953 OF 2015

The Municipal Corporation of Gr. Mumbai .. Applicant/Appellant

Versus

Madanlal Pukhraj Jain and others .. Respondents

Mr. A. V. Diwate for the Applicant/Appellant.

Mr. Suresh Dubey for the Respondent Nos.1 to 4.

CORAM : R.M. SAVANT, J.

DATE : 16th JUNE 2016

PC.

1. The above Civil Application has been filed seeking condonation of delay of 160 days in filing the Appeal from Order. The reasons therefor are mentioned in paragraphs 5 and 6 of the Civil Application. The Respondent Nos.1 to 4 have filed their affidavit in reply and have thereby opposed the grant of any reliefs in the above Civil Application. The Learned Counsel for the parties would make submissions for and against the condonation of delay. Since the delay has occurred on account of the procedure that is required to be followed by the Applicant/Appellant for arriving at a decision whether to file an Appeal or

not, in my view, case for exercise of discretion is made out. In my view, opportunity is required to be given to the Applicant/Appellant which is a public body to prosecute the Appeal from Order on merits. Hence, accepting the reasons mentioned in the Civil Application, the same is allowed. Resultantly, the delay of 160 days in filing the Appeal from Order is condoned. The Civil Application is accordingly disposed of. The Applicant/Appellant to pay costs of Rs.1000/- to the Respondent Nos.1 to 4 within four weeks from date. List the Appeal from Order for admission after four weeks i.e. on 14.07.2016.

[R.M. SAVANT, J]