

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

**CIVIL APPLICATION NO.1176 OF 2015
IN
FIRST APPEAL (ST) NO.22037 OF 2014**

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
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Mr.E.K.Sasidharan for the applicant

Ms.Poonam Sharma i/b M/s.S.K.Jain and Associate for the respondent no.1

Ms.Anita Chetia i/b Mr.Anil Agarwal for the respondent no.2

CORAM : K.K.TATED, J.
DATED : 06/01/2016

PC:

- 1 Heard the learned counsel for the parties.
- 2 Advocate for the respondent no.1 filed affidavit dated 6.1.2016. Same is taken on record.
- 3 This application is preferred by plaintiff for condonation of 43 days delay in filing First Appeal challenging the judgment and decree dated 15.5.2014 passed by Bombay City Civil Court at Bombay in S.C.Suit No.9103 of 1999 (High Court Suit No.4446 of 1999).
- 4 The learned counsel for the applicant submits

that the Advocate on record in Trial Court immediately applied for certified copies on 13.6.2014. He further submits that earlier advocate gave opinion that period of limitation is three months from the date of receipt of certified copies. He submits that because of incorrect legal opinion from the earlier advocate there is a delay in preferring the present First Appeal. In support of this contention, the learned counsel for the applicant relies on paragraph 2 and 3 of the Civil Application.

5 On the other hand, the learned counsel for the respondent no.1 and respondent no.2 vehemently opposed the present Civil Application. They submit that the applicant has not shown sufficient cause for inordinate delay of 43 days in filing First Appeal. Hence, there is no substance in the present Civil Application and same be dismissed with cost.

6 Considering the submissions made by the learned counsel for the Applicant and the averments made in paragraph 2 and 3 of the Application, I am satisfied that the Applicant has made out a case for allowing the present Civil Application. Hence, following order:

a) Delay of 43 days in filing First Appeal challenging the judgment and decree dated 15.5.2014 passed by Bombay City Civil Court at

Bombay in S.C.Suit No.9103 of 1999 (High Court Suit No.4446 of 1999) is condoned.

b) Civil application stands disposed off accordingly.

(K.K.TATED, J.)