

Sequeira

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

*CIVIL APPLICATION NO. 600 OF 2015
in
CIVIL REVISION APPLICATION NO. 608 OF 2015*

Shri Ajaykumar Vishnu Dasture.	.. Applicant
<i>In the matter between</i>	
Shri Ajaykumar Vishnu Dasture.	.. Petitioner
<i>Vs.</i>	
Gracious Herbals Pvt. Ltd.	
Through its Authorized Director	
Shri Madhav Vishnu Joshi	.. Respondent

Mr.Dilip Bodake, for the Applicant / Petitioner.
Mr.Prabhakar Jadhav, for the Respondent.

***CORAM : N.M.Jamdar, J.
Tuesday, 16 August 2016.***

P.C. :

By this Application, the Applicant seeks condonation of delay of two days in filing Revision Application. The learned counsel for Respondent strongly opposes and states delay is of 76 days and the averments are false. I am of the opinion that equities can be balanced by allowing the Civil Application by imposition of cost of ₹ 1000.

2. At this stage of dictation of the order, learned counsel for the Applicant submitted that the Applicant should not be put to cost as

the Applicant has good case on merits for condonation of delay and the Court must examine the cause made out by the Applicant for condonation of delay on its own merit. It was repeatedly put to the learned counsel for the Applicant that considering the reply filed by the Respondent pointing out that the averments made in the Application are incorrect and false to the knowledge of the Applicant, indulgence can be shown to the Applicant by way of imposition of nominal costs considering the duration. However, learned counsel for the Applicant has steadfastly refused for the reasons best known to him and has called upon the Court to examine the matter on merits. Therefore, there is no option left but to strictly consider the Application as per law.

3. In the Application, the Applicant has stated that the impugned order was passed on 26 February 2015. The application for certified copy was made on 13 March 2015 and the same was made ready on 15 April 2015. He stated that due to paucity of funds, the Applicant could not pursue the present Civil Revision Application. It is averred that the Applicant had to pay fees of his son's admission for which he had to take loan. These statements are made on oath. However it can be seen that the results were declared in June 2015 and there is no question of taking admission in May 2015 as stated in the Application. So also the receipt shows accordingly. In spite of the Respondents filing a reply, and pointing out this position and taking time to file rejoinder, no rejoinder is filed. No other reason is given

by the Applicant for condonation of delay.

4. Once the statement made on oath by the Applicant is found to be patently false to the knowledge of the Applicant, no cause exists to condone the delay. This therefore is not the case of insufficient cause but cause pleaded being false. Still looking at the extent of delay application could have been considered on imposition of cost, but for the vehement opposition of the learned counsel for the Applicant.

5. The Applicant has challenged the order dated 26 February 2015 whereby the Application filed by the Applicant under Order VII Rule 11 to reject the plaint on the ground that Civil Court has no jurisdiction to decide the matter regarding emails, has been dismissed. The suit has been filed by Respondent against the Applicant for recovery of amount of ₹ 79,90,703. It appears that the allegation of the Respondent that the Applicant is deliberately delaying the proceedings so as to avoid payment of the amount claimed, is justified

6. The Civil Application is accordingly rejected. Civil Revision Application stands disposed of accordingly.

(N.M.Jamdar, J.)