

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Amk

CIVIL APPLICATION NO. 590 OF 2015
IN
CIVIL REVISION APPLICATION (STAMP) NO. 25287 OF 2015

Smt. Sudha sd/o Shyamrao Karkey ...Applicant

In the matter between

Shri Shyamrao Ramrao Karkey ... Applicant
(since deceased)

Versus

Shri Shailesh Shyamrao Karkey & ...Respondents
Anr.

.....

Mr. Kunal Bhanage for the Applicant.

Ms. Sanjana Jaguste i/b Mr. U. G. Jaguste for the Respondent.

CORAM : R. M. SAVANT, J.

DATE : 1st MARCH, 2016.

P. C. :

1. The above Civil Application is filed for condonation of delay of 405 days in filing the above Civil Revision Application. The Civil Revision Application is filed challenging the judgment and order dated 12.02.2014 passed by the Appellate Bench of the Small Causes Court by which the Appeal came to be allowed and resultantly the decree passed by the Trial Court came to be set aside. The reasons for the delay have been mentioned in paragraphs 4 & 5 of the Civil

Application. The sum and substance of the reasons is that after the Appellate Bench had passed its judgment and order, the applicant through her lawyer in the trial Court had handed over papers to an Advocate practicing in this Court for filing of proceedings challenging the judgment and order passed by the Appellate Bench of the Small Causes Court. It is averred that the applicant is a widow and a lay person and is not aware of the niceties of law. It is further averred that the inquiries were made with the Advocate who had been given the papers for filing of the proceedings in this Court and who had informed the applicant that the proceedings have been filed. However on making inquiries on the website it was found that no such proceedings were filed and that it is thereafter that the papers were handed over to the present Advocate for filing of the proceedings in this Court which has resulted in the said delay of 405 days.

2. The above application has been replied to and on behalf of the respondent who is the son of the applicant. The reasons mentioned in paragraphs 4 & 5 are questioned on the ground that the said paragraphs are bereft of any particulars. It is the case of the respondent that having regard to the case made out in the application, the reasons mentioned therein do not constitute

sufficient cause for condonation of the said delay of 405 days. It is, therefore, contended that the application be rejected.

3. Heard the learned Counsel for the parties. The learned Counsel for the parties would urge contentions for and against the condonation of delay.

4. Having heard the learned Counsel for the parties, in my view case for exercise of discretion in favour of the applicant is made out. The reasons mentioned in paragraphs 4 & 5 of the application can be said to be the plausible reasons as to why the delay of 405 days has occasioned. It is required to borne in mind that the applicant is a widow and is now left with the onerous task of prosecuting the proceedings against the respondent who is her son as the original proceedings were initiated by her husband. It is well settled that in matters of condonation of delay a highly technical and pedantic approach should be avoided and an approach which furthers the cause of substantial justice should be adopted. The judgment of the learned Single Judge of this Court reported in **2015(6) ALL MR 395** in the matter of **Mr. Bolu Bandodkar Vs. Diana Zita Agnela D'Souza e Martyres** would have no application as the facts in the said case are distinguishable from the facts in the instant case. The Civil Application is accordingly allowed. Resultantly the delay of 405

days in filing the above Civil Revision Application stands condoned.

5. The Civil Application is accordingly disposed of.

6. List the Civil Revision Application for admission on
15.03.2016.

(R. M. SAVANT, J.)