

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 1562 OF 2016

IN

FIRST APPEAL (ST) NO. 26036 OF 2015

ALONGWITH

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The New India Assurance Co. Ltd

.....Appellant
(Original Opponent
No.1)

V/S.

1. Nilam Nilesh Bhalerao & Ors.

.....Respondents
(Respondent no.1 to 4
are original applicants/
claimants and
respondent no.5 is the
original opponent no.1)

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Mr. Sandeep Jinsiwale, Advocate for the applicant.

Coram :- Smt. R.P. SondurBaldota, J.

2nd May, 2016.

P.C. :-

1). This application by the Insurance Company is for condonation of delay of 23 days in preferring the First Appeal against the judgment and award dated 18th February, 2015. The explanation for the delay is set out

at para-3 of the application, wherein all that the applicant states is that, the application for certified copy of the judgment and award was filed on 10th March, 2015 and that the copy was ready on 10th June, 2015. The applicant does not even acknowledge the delay in applying for the certified copy. After receiving the certified copy, the applicant had called for legal opinion from the legal retainer. For that purpose, the Pune Regional Office had forwarded the case papers to the Mumbai Regional Office with recommendation to file an appeal. Then the matter was considered at the Mumbai office where it was decided to file appeal. Then, the papers were forwarded to the panel advocate for preferring the appeal. The application nowhere states the details of the actions of transfer of papers from Pune Regional office to Mumbai Regional office and the time taken for arriving at the decision of preferring the appeal.

2). Mr. Jinsiwale, learned Advocate appearing for the applicant, submits that the applicant being a corporate body has to route the file through it's various departments including the law department. Different law officers have to look into the papers before the decision to file appeal is taken.

3). Firstly, the explanation set out is without any particulars whatsoever. Secondly, even if as a corporate body, the applicant desires to adopt some procedure to be followed for the decisions to be taken regarding court matters, the period of procedure has to fit into the period of limitation prescribed by law. It cannot have a procedure of it's convenience and then claim exemption from limitation. This is not a case where certain exceptional circumstance had stepped in and prevented the applicant from filing the appeal within the prescribed

period of limitation.

4). Mr. Jinsiwale, learned Advocate appearing for the applicant, relies upon the decision of the Apex Court in the case of **Collector, Land Acquisition, Anantnag and another vs. Ms. Katiji and Others, reported in (1987) 2 Supreme Court Cases page 107** to submit that the Court must adopt justice oriented approach and where there is sufficient cause for condoning the delay, ought to condone the delay. In the decision cited, the Apex Court has observed that the expression “sufficient cause” employed by the Legislature in Indian Limitation Act, 1963 is adequately elastic to enable the Courts to apply the law in a meaningful manner to sub-serve the ends of justice – that being the life-purpose for the existence of the institution of courts. It also says that, a justifiably liberal approach is to be taken in such matters. There can be no dispute with the proposition canvassed. However, one cannot loose sight of the fact that, the proposition comes into play in the event of sufficient cause being shown, which has not been shown in the present case.

5). Mr. Jinsiwale, then submits that, the delay on the part of the applicant was not intentional and that the applicant is not going to benefit from the delay since the applicant would be depositing the amount of compensation in the Court. According to him, the amount so deposited would in fact be secure for the respondents. I find no substance in the argument because even if, by way of an condition to the interim relief, the amount of compensation is deposited either in this Court or in the Tribunal, that does not mean that the claimants get to receive the same immediately. For that purpose, they need to file

appropriate proceedings in the Court of law, which would be contested. The claimants would also have the liability of a litigation on their hands for a substantial length of time. Hence, the Civil Application is dismissed.

6). In view of dismissal of the civil application for condonation of delay, the first appeal and the civil application taken out for interim reliefs do not survive. The same are accordingly disposed off.

7). Office to refund the court-fees in accordance with law and the amount of statutory deposit.

(SMT. R.P. SONDURBALDOTA, J)