

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

**CIVIL APPLICATION NO.3822 OF 2015
IN
FIRST APPEAL STAMP NO.31067 OF 2015**

**The Oriental Insurance Company Limited : Applicant.
Versus
Rafique Abdul Malik Tejani and ors. : Respondents.**

**Mr. A S Vidyarthi for the Applicant.
Mr. P N Shah for the Respdent No.1.**

**CORAM : R. M. SAVANT, J.
DATE : 30th June 2016**

P.C.

1 The above Civil Application has been filed by the Applicant seeking condonation of delay of 402 days in filing the above First Appeal.

2 At the outset the learned counsel appearing for the Applicant Shri Vidyarthi fairly states that that the ground set out in paragraph 3 of the above Civil Application would not be pressed by the Applicant. Statement accepted.

3 The reasons for the said delay of 402 days in filing the above First Appeal find a place in the above Civil Application. The Applicant wants to fortify its case for condonation of delay on the basis of the averments appearing in the rest of the paragraphs of the Civil Application except paragraph 3 in respect of which as recorded above the learned counsel for the

Applicant has made a statement that the same would not be pressed. The sum and substance of the reasons is that there was some delay in preparing the First Appeal as also the Civil Application for condonation of delay at the end of the lawyer who was appearing for the Applicant/Appellant in the Trial Court. The second ground is that the certified copy of the order obtained on 04/08/2014 was misplaced in the office of the Applicant which has resulted in the delay.

4 The Respondent No.1 has filed affidavit in reply wherein the reasons mentioned in the above Civil Application have been questioned.

5 Heard the learned counsel for the parties. The learned counsel on either side would urge contentions in support and against the condonation of delay which is sought by way of the above Civil Application.

6 In so far as the condonation of delay is concerned, it is well settled that a highly technical approach should be eschewed and an approach which furthers the case of substantial justice should be adopted. In my view, considering the fact that certain procedure is required to be followed by the Applicant – Insurance Company before arriving at a decision to file Appeal, the reasons mentioned by the Applicant in the above Civil Application for the delay of 402 days in filing the above First Appeal can be said to be the plausible reasons for the same.

7 In so far as the Respondent No.1 is concerned, for the inconvenience that is caused to him, the same can be compensated by way of costs.

8 Hence accepting the reasons mentioned in the above Civil Application, the same is allowed. Resultantly the delay of 402 days in filing the above First Appeal stands condoned. The Applicant to pay costs of Rs.5000/- to the Respondent No.1 within four weeks from date. List the above First Appeal for admission on 28/07/2016. The above Civil Application is accordingly disposed of.

[R.M.SAVANT, J]