

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

CIVIL APPLICATION NO.789 OF 2013

IN

CIVIL REVISION APPLICATION (STAMP) NO.32825 OF 2013

Shri. Sohanlal Pirudan Ojha

.. Applicant

Versus

**Unknown heirs and legal representatives
of tenant Shri. Soni Shankar Kashinath
and another**

.. Respondents

Mr. S. P. Srivastava, for the Applicant.

**Ms. Kamlesh Rajwani i/by Nahush Shah Legal, for the Respondent
No.2.**

CORAM : R.M. SAVANT, J.

DATE : 26th FEBRUARY 2016

PC.

1. The above Civil Application has been filed for condonation of delay of 362 days in filing the above Civil Revision Application. The Civil Revision Application is directed against the concurrent decrees of dismissal passed by the Courts below. The reasons for delay in filing the Civil Revision Application have been mentioned in paragraphs 5 and 6 of the Civil Application. The said paragraphs are reproduced hereinunder for the sake of ready reference :-

“5. The Applicant states that he is permanent resident of Bikaner (Rajasthan). The Applicant states that there is family property at my native place. The Applicant states that the dispute arose in the family in respect of the Ancestral property at native place therefore the Applicant was mostly residing at native place and was very much disturb. The Applicant states that now the matter is settled at native place.

6. The applicant states that he contacted his earlier advocate then he informed the Applicant that he is not handling the high court matters therefore the Applicant has to engage some other advocate. The Applicant contacted the present advocate on 10.11.2013 and handed over all the court proceedings then the present advocate informed me that there is delay then the applicant informed his present advocate than he could not challenge the order within time because he was held up at native place because of dispute in respect of ancestral property.”

2. Hence, in so far as the paragraph 5 is concerned, it is the case of the Applicant that he is permanent resident of Bikaner. That there was dispute at his native place in respect of ancestral property on account of which he got disturbed and now the matter has been settled. In so far as the paragraph 6 is concerned, it is stated that he contacted his earlier advocate who informed him that he is not handling High Court matters and thereafter the Applicant has contacted the present advocate on 10.11.2013.

3. It is required to be noted that the Applicant was represented by Advocate in the Courts below. In so far as the facts mentioned in paragraphs 5 and 6 are concerned, the said paragraphs are bereft of any

reason when the Applicant left for his native place what was the dispute between the family members and how the dispute was settled. In so far as the paragraph 6 is concerned, the same is also bereft of any particulars, save and except stating that he met the present Advocate on 10.11.2013. It is well settled that though in matters of condonation of delay, highly technical and pedantic approach should be avoided. Nevertheless, the delay can be condoned only if sufficient cause is made out. It is also well settled that the approach whilst considering the application for condonation of delay has to be judicious and delay cannot be condoned mechanically. In my view, having regard to the averments made in paragraphs 5 and 6, they hardly constitute sufficient cause for condonation of the said huge delay of 362 days. It is also well settled that whilst considering an application for condonation of delay, prejudice that would be caused to the other side is also a relevant consideration. In that view of the matter, no relief can be granted to the Applicant herein. The Civil Application is accordingly rejected.

4. In view of the rejection of the Civil Application filed for condonation of delay, the above Civil Revision Application (Stamp) No.32825 of 2013 which suffers from the said delay of 362 days does not survive and to accordingly stand disposed of.

[R.M. SAVANT, J]