

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.226 OF 2007
IN
APPEAL (L) NO.884 OF 2006

M/s. India Scarp Corporation Ltd. Appellant
V/s
Union of India Respondent

WITH
APPEAL (L) NO.884 OF 2006
IN
ARBITRATION PETITION NO.467 OF 2004

M/s. India Scarp Corporation Ltd. Appellant
V/s
Union of India Respondent

Ms. Yasmeen Mohd. Sabir i/b M/s. Little & Co. for Applicant/Appellant.
Mr. T.J. Pandian for Respondent.

CORAM : ANOOP V. MOHTA &
A.A. SAYED, JJ.

DATED : 02 MAY 2016

ORDER:

1 Applicant/Appellant has taken out this Notice of Motion for condonation of delay of 12 months and 6 days in filing the Appeal mainly on the grounds as averred in paragraph nos.1 to 6 of Affidavit in support of Notice of Motion, which read as follows:

"1. I say that by an order dated 29th August 2005 the Hon'ble High Court allowed the Arbitration Petition filed by the Respondent. Being aggrieved by the same the Appellant has preferred the present appeal for a limited purpose.

2 I say that the order was passed on 29th August 2005. The Appellant had applied for the certified copy of the order on 31st August 2005 and the same was ready on 8th October 2005.

3 I say that the parties have subsequently made a fresh reference to the Arbitration and the Appellant has filed his fresh Claim on 17th March 2006.

4 I say that on the 18th March 2006 the Appellants received a letter dated 14th March 2006 from the Respondents calling upon the Appellants to pay a sum of Rs.19,311/- to the Respondents towards the cost of the Arbitration Petition within 15 days from the date of issue of the said letter. I say that since fresh reference was made for Arbitration I was under the reasonable impression that the Respondent shall not demand any cost.

5 I say that despite the fresh reference the Respondent called upon the Appellant to pay a sum of Rs.19,311/- towards costs. I say that the Respondent has been following up with me for costs and therefore I am moving the Hon'ble High Court in Appeal against the impugned order dated 29th August 2005 imposing costs on the Appellants.

6 I say that the balance of convenience is in favour of the Appellant. I, therefore, say that the delay caused in filing the above appeal be condoned. I say that grave and irreparable harm and injury will be caused to the Appellant if the delay caused is not condoned."

2 Considering the averments so made and even otherwise, we are satisfied that no case is made out for condonation of delay in filing the Appeal. In the present facts and circumstances, the challenge to the order by the Appeal though restricted to the grant of costs but still so far as the limitation is concerned, there is no sufficient cause made out for condonation of delay. Notice of Motion, therefore, is dismissed. No order as to costs.

3 In view of the dismissal of Notice of Motion for condonation of delay, the Appeal to stand disposed of.

(A.A. SAYED, J.)

(ANOOP V. MOHTA, J.)

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