

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION (APPEAL) NO.278 OF 2016
AND
NOTICE OF MOTION (APPEALS) STAMP NO.3165 OF 2015
IN
APPEAL (ST) NO.761 OF 2015
WITH
NOTICE OF MOTION (APPEAL) LODGING NO.2060 OF 2016
IN
APPEAL NO.442 OF 2016
WITH
APPEAL (ST) NO.761 OF 2015
IN
ARBITRATION PETITION NO.456 OF 2015**

Rashidabai Allarakha & Ors.

...Applicants

Versus

Mehrunnissa Sheikh Abdul Rahim &
Ors.

...Respondents

...

Ms Usha Gadagkar i/b. Diamondwala and Co. for the Appellants in
APP/442/2016.

Mr. Prasad Dhakephalkar, Senior Advocate with Mr. Jainish Jain for the
Appellant in APPL/761/2015.

Mr. Sagar S. Tambe i/b. Hussein and Co. for Respondent Nos.2 and 3 in
APP/442/2016 and Respondent Nos.12 and 13 in APPL/761/2015.

**CORAM : A.S. OKA &
SMT. ANUJA PRABHUDESSAI, JJ.**

DATED : 5th DECEMBER, 2016.

P. C. :

In view of the fact that the appeal was already finally heard

by the earlier Bench, the learned counsel for Respondent Nos.1 to 11 states that the Respondents have no objection to condone the delay. The notice of motion is opposed by the learned counsel for Respondent Nos.12 and 13.

2. The order dated 25th February, 2016 passed by the earlier Division Bench shows that the appeal was in fact finally heard and the judgment was reserved. Thereafter, there is a further order passed on 22nd April 2016 directing that the Appeal (Lodging) No. 761 of 2016 alongwith Appeal (Lodging) No.159 of 2016 (Appeal No.442 of 2016) shall be heard finally.

3. Accordingly, we find that all the parties proceeded on the footing that delay in preferring the appeal was condoned. Perhaps only a formal order of condonation of delay was not passed.

4. Accordingly, the notice of motion is made absolute in terms of prayer clause (a). Place both the appeals on **19th December, 2016.**

(ANUJA PRABHUDESSAI, J.)

(A.S. OKA, J.)