

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 9201 OF 2017

SANTOSH ABASAHEB BHAPKAR
VERSUS
HINDUSTAN PETROLEUM CORPORATION LTD. THROUGH ITS
AUTHORIZED REPRESENTATIVE.

...
Advocate for Petitioner : Shri Pahilwan Gautam J.

...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 22nd August, 2017

Per Court:

1 The Petitioner is aggrieved by the order dated 11.04.2017 passed by the learned District Judge-1, Aurangabad by which the delay of 02 days caused in filing the Arbitration Appeal has been condoned by imposing costs of Rs.20,000/-. The Petitioner is the original Respondent before the Appellate Court.

2 The learned counsel for the Petitioner has strenuously contended that though the appeal along with the application for condonation of delay was filed after suffering two days delay, the said proceedings were filed by the Appellant before the District Court at Ahmednagar which did not have jurisdiction to entertain the said appeal. The District Court, Ahmednagar, therefore, returned the appeal

proceedings to the Appellant and permitted the Appellant to approach the appropriate Court. It is in this backdrop that the Appellant approached the District Court at Aurangabad and filed the appeal.

3 The learned counsel for the Petitioner strenuously submits that in the light of the above and having approached the wrong court, the delay caused is of about 255 days since the Appellant filed the appeal after the District Court, Ahmednagar which returned the appeal memo on 17.09.2016 under Order 7 Rule 10 of the Code of Civil Procedure. The delay, therefore, is to be construed as 255 days.

4 It is apparent that the Appellant had approached the District Court at Ahmednagar since the Petitioner was a resident of Ahmednagar. Though the Appellant had its establishment at Aurangabad, the arbitration appeal was preferred before the District Court at Ahmednagar keeping in view the address of the Petitioner at Ahmednagar. The arbitration award has been delivered by the Arbitrator at Mumbai.

5 Considering the above, it becomes obvious that the Appellant was under a misconception that an appeal would be maintainable at the Ahmednagar Court. Even if it is construed that the delay is of 255 days taking into account the journey of the Appellant to the Ahmednagar Court and then to the Aurangabad Court, the costs of Rs.20,000/- have been imposed by the Appellate Court while condoning the delay.

6 I, therefore, do not find that the impugned order could be

termed as being perverse or erroneous or likely to cause gross injustice to the Petitioner.

7 This Writ Petition being devoid of merit is, therefore, dismissed.

kps

(RAVINDRA V. GHUGE, J.)