

IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 663 OF 2014

IN

STAMP NUMBER MAIN NO. 1762 OF 2014

SHRI. METROVIO DIAS AND ANR.,

... Applicants

Versus

IREN MASCARENHAS (EXPIRED) AND
33 ORS.,

... Respondents

Ms. Prithvi Bandekar, Advocate for the Applicants.

Mr. C. A. Coutinho, Advocate for the Respondent nos. 4, 6 and 7.

Coram:- F. M. REIS, J.

Date:- 12th January, 2017

ORAL ORDER

Heard Ms. Bandekar, learned Counsel appearing for the Applicants and Mr. Coutinho, learned Counsel appearing for the Respondent nos. 4, 6 and 7.

2. This is an application for condonation of delay of 15 months in filing the Second Appeal.

3. Learned Counsel appearing for the Applicants has pointed out that the delay occasioned in view of the sickness of the aged mother of the Applicant who was looked after by the Applicant and thereafter on account of the sickness of the Applicant. It is further pointed out that there was no deliberate intention on the

part of the Applicants to file the present Appeal belatedly.

4. On the other hand, Mr. C. A. Coutinho, learned Counsel appearing for the Respondent nos. 4, 6 and 7, submits that though it is contended that the Applicant was sick during the said period, nevertheless, according to him, there is some correspondence addressed by the Applicant to the concerned Chief Officer which discloses the falsity of such claim. Learned Counsel further pointed out that there is no sufficient cause made out by the Applicant for condoning the delay.

5. I have carefully considered the rival contentions of the learned Counsel and I have also gone through the records. No doubt, the application for condonation of delay does not give necessary particulars for this Court to come to a conclusive finding with regard to the contention of the Applicants about the sickness of the Applicant, nevertheless, the photographs produced on record suggests that the Applicant has a aged mother who was bedridden and residing with the Applicants. Whilst examining an application for condonation of delay, no doubt, there are some lapses committed by the Applicants whilst giving the explanation for delay but, however, the point for consideration in such circumstances is whether the lapses are so grave and serious which would disentitle the Applicants from

getting a decision on merits of the cases of the parties. In the present case, considering the sickness of the mother and it is not disputed that she was residing with the Applicants, I find that as such application has to be considered with a justice oriented approach, the delay deserves to be condoned subject to the Applicant paying costs to the Respondent nos. 4 to 6 who have opposed the above application which are quantified at Rs.5,000/- as condition precedent.

6. In view of the above, the delay stands condoned subject to the Applicant paying costs to the Respondent nos. 4 to 6 which are quantified at Rs.5,000/- within two weeks.

7. Application stands disposed of.

F. M. REIS, J.

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