

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 4731 OF 2016
IN
FIRST APPEAL NO. 717 OF 2005
WITH
CIVIL APPLICATION NO. 1261 OF 2004

Shri Narayan Khimji Parmar	..	Applicant
<u>In the matter between :</u>		
Shri Narayan Khimji Parmar	..	Appellant
vs.		
M/s. Hafkin Institute for Training Research and Testing	..	Respondents

Ms S. Rajak i/b. Mr. Amar Bhatt for Applicant / Appellant.
Ms Naina T. Duttia i/b. Nameet & Co. for Respondents.

CORAM : M. S. SONAK, J.
DATE: 23 FEBRUARY 2017

P.C :

1] Civil application no. 4731 of 2016 seeks recall of order dated 31 July 2006, by which the first appeal came to be dismissed for non prosecution and for restoration of the first appeal no. 717 of 2005. There is delay of 9 years and 88 days and consequently there is a prayer for condonation of such delay.

2] The applicant for the very same purpose, had taken out civil application no. 4309 of 2016 in first appeal no. 717 of 2005. By order dated 4 October 2016, such application was dismissed. This court, held that explanation offered is not acceptable and the delay of ten years is quite inordinate.

3] The applicant, in civil application no. 4731 of 2016 has suppressed the particulars with regard to civil application no. 4309 of 2016 and the order dated 4 October 2016 made thereon. Such suppression is not at all appreciated. Ms Rajak, learned counsel for the applicant states that she and her Senior have just been engaged in the matter and were therefore unaware of the disposal of the earlier civil application for the same purpose. This is possible. However, it cannot be said that the applicant himself, was unaware of the civil application filed by him and the order thereon.

4] That apart, in the reply filed on behalf of the respondents, there is reference to civil application no. 4309 of 2016 and even the copy of the order dated 4 October 2016 has been annexed along with the reply. The applicant, has not filed any rejoinder in the matter.

5] For the aforesaid reasons, civil application no. 4731 of 2016 is dismissed. Though, this is a fit case for imposition of costs, this court refrains from imposition of costs because the applicant, who appears in person states that he has already obtained VRS.

6] In view of dismissal of civil application no. 4731 of 2016, civil application for stay does not survive and is disposed of accordingly.

(M. S. SONAK, J.)