

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

CIVIL APPLICATION NO. 164 OF 2013

IN

LETTERS PATENT APPEAL (ST) NO.8552 OF 2013

IN

WRIT PETITION NO. 6184 OF 2012

Mrs. Bhaniben Vallabh Khalpa & ors. Applicants /Appellants

vs

Quessou Calan @ Keshavbhai K. Tandel & ors Respondents

Mrs. Sheetal Thakur i/by Vikram Chavan for the
Applicants/Appellants.

Mr. Paritosh Jaiswal i/by Ashok Purohit & Co.for Respondents 1 to 4.

**CORAM: ANOOP V. MOHTA AND
A. M. BADAR,JJ.**

DATE : February 07, 2017

ORDER:

The Appellants/Applicants have taken out this Application for condonation of delay of 116 days in filing the Letters Patent Appeal against order dated 20 October 2012 passed by the learned Single Judge of this Court. The learned counsel for the Respondent has opposed the same on various grounds.

2 Considering the averments so made in paragraphs 4 to 9

and also for the fact that one of the Applicant is about 81 years old and legal issue of jurisdiction was also decided and ultimately they have filed LPA against the order with an Application for condonation of delay. This, in our view, cannot be with any intention to delay the proceedings. The Appellants, even otherwise, considering the controversy and the issue so raised, would not get any benefit. The claim so raised, based upon the rights, needs to be decided in accordance with law. The LPA is the last remedy available to the Appellants. Therefore, taking overall view of the matter, keeping in mind the aspect of interest of justice and discretion, we are inclined to condone the delay as, according to us, sufficient cause is shown and as there was no intentional delay to take out such an Application. Therefore, Civil Application is allowed in terms of prayer (a).

3 No costs.

4 The Letters Patent Appeal be listed for admission after four weeks.

(A.M. BADAR,J.)

(ANOOP V. MOHTA, J.)