IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 2139 OF 2008
AND
CIVIL APPLICATION NO. 2140 OF 2008
IN
FIRST APPEAL (ST) NO. 9324 OF 2008

The Municipal Commissioner
and anr. .. Applicants.
vs.
Russell F. D'Mello and anr. .. Respondents.

Ms M.R. Bhoir for the Applicants - MCGM.
None for the Respondents.

CORAM : M. S. SONAK, J.
DATE : 30 JANUARY 2017.

P.C. :-

1] Civil Application No. 2139 of 2008 seeks condonation of delay of 247 days in instituting the first appeal against the order dated 10 February 2003 passed by the learned Additional Chief Judge of Small Causes Court, Mumbai. The appeal as well as the application for condonation of delay appears to have been instituted on 14 March 2008. If this be so, it is not understood as to how the delay in institution of the first appeal is of only 247 days. The delay would be well over five years to say the least. If the entire application is perused, it is seen that the same is premised on the basis that the delay is only 247 days. This means that in respect of rest of the period, which is quite inordinate, i.e., over four years, there is no explanation whatsoever. On this short ground, the civil application is liable to be dismissed and is hereby dismissed.

2] Even otherwise, if the application seeks condonation is perused, it is quite clear that there is no sufficient cause shown for inordinate delay of over five years in instituting the appeal. The reasons stated in the said civil application are that sanction of Standing Committee is required and there was lot of typing work involved, which has to be outsourced to outside agencies. Then, there are reasons that some time was required for obtaining sanction and there were other procedural/administrative formalities. All this is quite vague and not sufficient to explain inordinate delay of over five years for instituting the appeal.

3] The said civil application states that the municipal taxes is the main revenue of the Council and therefore, a liberal approach may be adopted. If the municipal taxes is the main source of revenue, it is extremely important that the Council exhibits greater diligence in such matters. Even if some liberal approach is to be adopted, the delay in the present case is of over five years. This is quite inordinate and the explanation afforded does not constitute sufficient cause.

4] For the aforesaid reasons, Civil Application No. 2139 of 2008 is dismissed. Consequently, First Appeal (St.) No. 9324 of 2008 and Civil Application No. 2140 of 2008 are also dismissed.

(M. S. SONAK, J.)

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