

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.434 OF 2016
IN
CIVIL REVISION APPLICATION STAMP NO.13479 OF 2916**

Hindustan Petroleum Corporation Ltd. : Applicant.
versus
Sayyad Banemiya Sayyad Kasam
since deceased through LRs
Sau. Mumtazbegum Maqbut Beg and ors. : Respondents.

Mrs. Ashiya Shaikh i/by Ms. Rustamji & Ginwala for the Applicant.
Mr. Amey Deshpande for the Respondent No.1B

CORAM : R. M. SAVANT, J.
DATE : 13th APRIL 2017

P.C.

1 The above Civil Application has been filed seeking condonation of delay of 2 years and 54 days in filing the above Civil Revision Application. The reason therefor is mentioned in the above Civil Application. The reason is to the effect that the Applicant was earlier prosecuting the Second Appeal in this Court which Second Appeal was filed on 13/03/2014 and came to be ultimately withdrawn on 02/05/2016 with liberty to file the above Civil Revision Application. The impugned order is dated 22/11/2013. Since the said Second Appeal was belated by two days, the said delay was condoned by a learned Single Judge of this Court. The condonation of delay in filing the above Civil Revision Application has been sought on the touchstone of Section 14 of the Limitation Act as the Applicant was bonafide pursuing the remedy by way of a Second Appeal.

2 The learned counsel appearing on behalf of the Respondent No.1B Shri Amey Deshpande opposes the above Civil Application.

3 In my view, having regard to the aforesaid conspectus of facts, the delay which has occurred in filing the above Civil Revision Application cannot be attributed to any negligence or indolence on the part of the Applicant but has to be attributed to a wrong remedy being persuaded by the Applicant against the decree passed by the Lower Appellate Court, the above Civil Application is therefore required to be allowed and is accordingly allowed. Resultantly the delay of 2 years and 54 days in filing the above Civil Revision Application would stand condoned. The above Civil Application is accordingly disposed of. List the above Civil Revision Application for admission on 14/06/2017. Till then no precipitative steps to be taken pursuant to the impugned decree.

[R.M.SAVANT, J]