

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.683 OF 2016
IN
CIVIL REVISION APPLICATION (ST.)NO.13703 OF 2016

Mr. Suresh Talchikar
& Others

.. Applicants/
(Orig. Plaintiffs).

v/s.
Sharmila J. Ramnathkar
& Another

.. Respondents.

Mr. Sumit Raghani i/b. AGRUD Partners, for the Applicants.
Mr. S. N. Vaishnawa with Ms. Kirtika S. Kothari i/b. N. N. Vaishnawa &
Co., for Respondent No.2.

CORAM: M.S.SANKLECHA, J.
DATE : 29th AUGUST, 2017.

P.C:-

This Application seeks a condonation of 684 days delay in filing the accompanying Civil Revision Application, challenging the order dated 27th March, 2014 passed by the City Civil Court, Bombay. By the impugned order dated 27th March, 2014, the Chamber Summons taken out by the three legal heirs of the deceased Plaintiff in a suit which has already been decreed on 9th May, 2013, was rejected.

2 There are three Applicants to the present Application as well as to the accompanying Civil Revision Application (CRA). The only reason given in the application for the delay in filing the CRA is that, Applicant No.2 is residing in Australia and he was wrongly advised by his earlier

Advocate. It was only for sometime in March, 2015 when he approached the present Advocate, he became aware that bringing the legal heirs on record, was necessary in the present facts. However, even though the application itself has been filed on 5th February, 2016 i.e. almost 11 months after the receipt of advise in March, 2015 that the CRA would be the proper remedy to challenge the order dated 27th March, 2014.

3 The reasons for delay is attributed by the Applicants to the fact that the Applicant No.2 was away in Australia. However, the Applicant No.1 is very much a resident of Mumbai and no explanation is forthcoming why he did not pursue the advise received by the Applicants from his present Advocate in March, 2015. The reasons indicated in the Civil Application do not satisfactorily explain the delay of 684 days in filing the accompanying CRA. As observed by the Apex Court in ***Balwant Singh (D) v/s. Jagdish Singh & Others 2010 (8) SCC 685***, sufficient cause itself presupposes no negligence or inaction on the part of the person seeking condonation of delay. In this case, there is no satisfactory explanation for the delay on the part of Applicants.

4 In the above view, no sufficient cause has been shown by the Applicants to condone the delay of 684 days in seeking to file the accompanying CRA.

5 Accordingly, **Civil Application** is **dismissed**. Consequently, **Civil Revision Application** also does not survive and the same is also **dismissed**.

(M.S.SANKLECHA,J.)