

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****CIVIL APPLICATION NO.4202 OF 2013****IN****FIRST APPEAL (STAMP) NO.17641 OF 2013**

M/s. Narvin Chemicals Pvt. Ltd. ...Applicant

Versus

Smt. Singhadevi H. Gupta and Ors. ...Respondents

Mr.R.S.Pai and Mr.Anand R.Pai a/w Ms.Radha R.Ved,
Mr.Aditya Bhatt i/b Sanjay Udeshi and Co. for Appellants.

Mr.V.M.Parkar for Respondent Nos.1 to 3.

Kiran Bapat a/w Jayesh Desai i/b Desai and Desai
Associates for Respondent No.4.

CORAM: S.C.GUPTE,J

DATED: 11 April, 2017

PC:-

1. Heard learned counsel for the parties.
2. This Civil Application seeks condonation of delay of about 138 days in filing the present First Appeal. The main ground on which condonation is sought is that though the Applicant deposited the decretal amount before the Trial Court immediately after the certified copy of the impugned order was made available, the certificate to that effect was

issued by the Commissioner after a delay of about 4-5 months. Learned Counsel for the Respondents disputes this averment. He relies on a reply issued to him by the Commissioner's Office on 28 February 2015 in response to his RTI Application. The reply indicates that the receipt issued by the Commissioner's Office was collected by the Applicant in June 2013, though the amount deposited by the Applicant was credited after the cheque was realised on 2 February 2013. The reply also indicates that a receipt was issued in accordance with the cheque and handed over to the Applicant's representative, when he came to collect the same. There is no clarity on the issue, as to when was the receipt actually made out by the Commissioner's Office. The signature of the Commissioner appearing on the receipt is as of 7 June 2013.

3. On these facts, there is a case for condonation of delay. The Civil Application is, accordingly, allowed in terms of prayer clause (a). Office shall now number the First Appeal, subject to removal of other office objections, if any, and place the same for admission on 2 May, 2017. The objection to the maintainability of the First Appeal shall be considered at the time of the hearing of the First Appeal. Civil Application is, accordingly, disposed of.

(S.C.GUPTE,J)