

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

**CIVIL APPLICATION NO. 998 OF 2016
IN
SECOND APPEAL (ST) NO. 22102 OF 2014**

Kalyan Dombivli Municipal Corporation	...Applicant
vs.	
Mr.Kachru Dhau Gaikar & Ors.	...Respondents

Mr.Prashant Kamble I/b. A.S. Rao for Applicant.
Mr.Chintan Shah I/b. Triyama Legal for Respondent No.1.

**CORAM : S.C. GUPTE, J.
24 MARCH 2017**

P.C.:

The civil application seeks condonation of a delay of 1 year and 21 days in filing the present second appeal. The explanation for the delay is that the certified copy of the decree of the trial court was available later.

2 Learned Counsel for the Respondent No.1 submits that for the purposes of computation of limitation, what is relevant is the time taken for obtaining a certified copy of the order of the lower appellate court and not of the trial court. That may be, but nevertheless non-availability of a certified copy of the trial court with the Appellant may be one legitimate reason why the filing of the second appeal was delayed. Anyway, this does not appear to be a case of any deliberate delay with a view to gain any undue advantage. In the overall facts of the case and in the interests of justice, the delay is condoned.

3 Office shall now number the second appeal, subject to removal

of other office objections, if any, and place the same for admission on 24 April 2017. Respondent No.1 waives notice of the second appeal. The second appeal may be served on the other Respondents. The Appellant is also permitted to effect a private service and file an affidavit of service by the next date.

4 The civil application is disposed of accordingly.

(S.C. GUPTE, J.)