

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1017 OF 2016
IN
APPEAL FROM ORDER ST. NO.22320 OF 2016

Rita M. Dadarkar & Ors.

... Applicants

Vs.

Yeshubai G. Dadarkar & Ors.

... Respondents

Mr.Rakesh Kumar with Aishwarya Hadkar i/b M/s.Legal Vision for
Applicant

Mr.Navin Parekh with Sheetal Shah i/b M/s.Mehta & Girdharlal for
Respondent Nos.6 and 6A

Ms.Meetal Savla i/b Piyush Shah for Resp. Nos.7 to 12

CORAM: MRS.MRIDULA BHATKAR, J.

DATE: DECEMBER 11, 2017

P.C.:

1. This application is moved for condonation of delay of 11 days in filing the appeal.

2. Mr.Amit Palkar has filed Vakalatnama on behalf of Respondent No.2, however, he is not present. Mr.Parekh appears for Respondent Nos.6 and 6A. Ms.Savla appears for Respondent Nos.7 to 12. Learned Counsel for the applicant submits that respondent No.1 is dead and he is not pressing this Appeal from Order against the other

respondents as they did not contest the Notice of Motion before the trial Court.

3. Learned Counsel for the applicant submits that he has mentioned the reasons for delay. He submits that his clerk was ill. The application was made earlier for certified copy of the impugned judgment and order between 20.6.2017 and 27.6.2017. Another application was made on 22.7.2017 because the clerk had lost the receipt. It is also mentioned that the daughter of applicant No.1, who is one of the appellants, is studying and was not available for signing as she was travelling out of Mumbai.

4. Learned Counsel for respondent Nos.6 and 6A opposed the application and submitted that the applicant should come to the Court with clean hands when he is asking for condonation of delay. He submits that the reasons mentioned by the applicant are false as they are not substantiated with documentary proof. He submits that the fact that his clerk made the application in the month of June, 2016, is false and nothing is shown in support of this fact. He submits that if the receipt is lost, then, it can be communicated to the certified copy department of the City Civil Court and then a copy could have been obtained. He further submitted that the applicant

should have furnished a document of proof of travel of his daughter and hence, the application is to be rejected.

5. The learned Counsel for Respondent No.7 to 12 submitted to the orders of the Court.

6. Perused the application. Considered the submissions made by the learned Counsel for the parties. There is a delay of 11 days. I am of the view that the reasons mentioned in the application are sufficient cause to condone the delay. The objections of the opponent are rejected.

7. Appeal be numbered and listed on 5.2.2018.

8. Civil Application is disposed of accordingly.

(MRIDULA BHATKAR, J.)