

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 4423 OF 2013
IN
FIRST APPEAL (ST) NO. 30549 OF 2013

National Insurance Company Limited .. Applicants
vs.
Shobha V. Patil and ors. .. Respondents

Mr. Mehta i/b KMC Legal for the Appellants-Applicants.
Ms Supriya Lopes i/b Mr. A.M.Gokhale for Respondent No.2.

CORAM : M. S. SONAK, J.
DATE : 31 JANUARY 2017.

P.C. :-

1] Mr. Mehta, learned counsel for the applicants, submits that all the respondents have been duly served. Some of the respondents were served by way of publication. Necessary affidavit of service is also filed.

2] In this case, the delay in institution of the first appeal is of 69 days. Ms Supriya Lopes, learned counsel for respondent No.2 who is one of the claimant, submits that in the application seeking condonation of delay there is reference to only 32 days. However, as per the Registry and even otherwise, rightly the delay is of 69 days. She submits that for a period beyond 32 days, there is no explanation. On this ground, she submits that this is not a fit case for condonation of delay.

3] If the application for seeking condonation of delay is perused and taking into consideration the explanation offered, the same

would suffice in respect of the delay of 69 days as well. The prejudice to respondent No.2 can always be compensated by way of costs. Accordingly, the civil application is allowed subject to payment of costs of Rs.3,500/-. Such costs to be paid to respondent No.2 within a period of two weeks from today. Ms Lopes, learned counsel for respondent No.2, states that she will accept the amount of costs of Rs.3500/- on behalf of respondent No.2.

4] In case, the amount of costs are paid, place the appeal for further consideration on 28 February 2017 on supplementary board. Taking into consideration the grounds raised by the appellants, it is made clear that if possible an endeavor shall be made to dispose of the appeal finally, at the stage of admission itself.

(M. S. SONAK, J.)

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