

IN THE HIGH COURT OF BOMBAY AT GOA**MISC.CIVIL APPLICATION NO. 434 OF 2018****IN
STAMP NUMBER MAIN NO. 338 OF 2018****SANGUEM MUNICIPAL COUNCIL, THR.
ITS CHIEF OFFICER, PRAMOD DESAI.,****... Applicant****Versus****DURGA BHIKU NADKARNI AND 11 ORS.,****... Respondents**

Adv. S. Bhobe for the Applicant.

Adv. Kakodkar Shambhu Satchidanand Respondents No. 1 To 4 and 6 to 11.

Coram:- C. V. BHADANG, J.**Date:- 20th August 2018.****P.C.:**

This is an application for condonation of delay of 51 days in filing an appeal challenging the judgment and decree dated 28/8/2017 passed by the learned District Judge in L.A.C no.27/2014. The applicant had applied for certified copy on 7/9/2017 and the copy was delivered on 19/9/2017. It is contended on behalf of the applicant that legal opinion was sought as to whether the award needs to be challenged, as according to the applicant, the enhancement granted by the Reference court was exorbitant. It is contended that after obtaining the legal opinion, the necessary formalities for approval

of the proposal to file appeal were taken up and the approval was granted in the fourth week of January 2018. The appeal along with an application for condonation of delay came to be filed on 29/1/2018 resulting into a delay of 51 days.

2. I have heard Ms. Bhobe, the learned counsel for the applicant and Shri Kakodkar, the learned counsel appearing for the respondent nos.1 to 4 and 6 to 10. Respondent no.5 is dead.

3. It is contended by the learned counsel appearing for the applicant that the delay is not intentional and the applicant after obtaining the approval and the legal opinion had filed the appeal with due expedition.

4. On the contrary , it is contended by Shri Kakodkar, the learned counsel appearing for the respondents that the delay has not at all been explained and there is no sufficient cause made out by the applicant for not filing the appeal within time.

On behalf of the respondents reliance is placed on the decision of the Supreme Court in the case of **Esha Bhattacharjee Vs. Managing Committee of Raghunathpur Nafar Academy and others (2013) 12 SCC**

649, Union of India and Others Vs. Nripen Sarma (2013) 4 SCC 57 and a judgment of this Court in the case of **Mr. Bolu Bandodkar Vs. Diana Zita Agnela D'Souza e Martyres & others 2015 (6) ALL MR 395.**

5. I have carefully considered the rival circumstances and the submissions made. The Hon'ble Supreme Court in the case of **Esha Bharacharya (supra)** after taking a survey of several decisions holding the field has culled out the principles which are germane while considering a prayer for condonation of delay. It has been inter alia held that the Court can take a liberal view of the matter where the delay is not of a gross nature. It has also been held that a State or a public body, as in the present case, representing a collective cause, should be given acceptable latitude. Considering the overall circumstances and further having regard to the fact that the respondents no.1 to 4 and 6 to 10 have also filed a counter appeal being F.A no.136/2017 which has been admitted, I find that the delay needs to be condoned. The judgment in the case of **N. Sarma** and **Mr. Bolu Bandodkar (supra)** turned on their own facts. It is trite that whether the party has made out sufficient cause for condonation of delay depends upon facts and circumstances of each case. In the present case the delay cannot be said to be of a gross nature and further having regard to the fact that that a reasonable latitude can be allowed in favour of a public body as in the present case, the delay deserves to be

condoned. The application is accordingly allowed. The delay in filing the appeal is condoned. Let the first appeal be registered.

C. V. BHADANG, J.

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