

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

**CIVIL APPLICATION NO.516 OF 2016
IN
CIVIL REVISION APPLICATION (ST.)NO.192 OF 2016**

Naval Gopikrishnan Rungta .. Applicant

V/s.

Yogesh Gopikrishnan Rungta and Ors. .. Respondents

Mr.S.M.Railkar for the applicant

Mr.Rushil Mehta for the respondent nos.6 to 8

CORAM: K.K. TATED, J.

DATED : NOVEMBER 26, 2018

P.C. :

1 Heard the learned counsel for the Applicant.

2 By this Civil Application, Applicant is seeking to condone delay of one year 349 days in filing the Civil Revision Application.

3 It is the case of the Applicant that though earlier he has preferred Appeal from Order No.341 of 2014 same was withdrawn by the Applicant on 23.11.2015. The present Civil Revision Application is filed on 23.12.2015. He submits that in view of these facts, this Hon'ble Court be pleased to condone the delay in filing the present Civil Revision Application. He submits that the Applicant has good chance of success in the present

proceedings. He submits that if delay is not condoned, irreparable loss will be caused to the Applicant.

4 On the other hand, the learned counsel for the Respondents vehemently opposed the present Civil Application. He submits that Applicant has not shown sufficient cause for condonation of delay of more than one year 349 days in filing the Civil Revision Application. Hence, there is no question of allowing the present Civil Revision Application.

5 I have heard both the sides.

6 It is to be noted that earlier the Applicant filed Appeal from Order and immediately thereafter he filed the present Civil Revision Application.

7 It is to be noted that the Apex Court in the matter of ***N.Balkrishnan Vs. M. Krishnamurthy (1998) 7 SCC 123*** held that the object of fixing the time limit is not meant to destroy the rights. The law of limitation fixes a lifespan for such legal remedy for the general welfare. Paragraph Nos.11, 12 and 13 of the said judgment read thus :

“11. Rules of limitation are not meant to destroy the right of parties. They are meant to see that parties do not resort to dilatory tactics, but seek their remedy promptly. The object of providing a legal remedy is to repair the damage caused by reason of legal injury. Law of limitation fixes a life-span for such legal remedy for the redress of the legal injury so suffered. Time is precious and the wasted time would never revisit. During efflux of time newer causes

would sprout up necessitating newer persons to seek legal remedy by approaching the courts. So a life span must be fixed for each remedy. Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. Law of limitation is thus founded on public policy. It is enshrined in the maxim Interest reipublicae up sit finis litium (it is for the general welfare that a period be put to litigation). Rules of limitation are not meant to destroy the right of the parties. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly. The idea is that every legal remedy must be kept alive for a legislatively fixed period of time.”

“12. A Court knows that refusal to condone delay would result in foreclosing a suitor from putting forth his cause. There is no presumption that delay in approaching the court is always deliberate. This Court has held that the words "sufficient cause" Under Section 5 of the Limitation Act should receive a liberal construction so as to advance substantial justice vide Shakuntala Devi Jain v. Kuntal Kumari, 1969 SC 575 and State of West Bengal v. The Administrator, Howrah Municipality, AIR 1972 SC 749.”

“13. It must be remembered that in every case of delay there can be some lapse on the part of the litigant concerned. That alone is not enough to turn down his plea and to shut the door against him. If the explanation does not smack of mala fides or it is not put forth as part of a dilatory strategy the court must show utmost consideration to the suitor. But when there is reasonable ground to think that the delay was occasioned by the party deliberately to gain time then the court should lean against acceptance of the explanation. While condoning delay the Court should not forget the opposite party altogether. It must be borne in mind that he is a loser and he too would have incurred quite a large litigation expenses. It would be a salutary guideline that when courts condone the delay due to laches on the part of the applicant the court shall compensate the opposite party for his loss.”

8 In view of above mentioned facts and the law declared by the Apex Court, I am of the opinion that Applicant has made out a case for allowing the present Civil Application. Hence, following order is passed:

A) Civil Application is allowed in terms of prayer clause (a) which reads thus:

“(a) delay of 1 year and 349 days caused in filing the abovementioned Civil Revision Application be condoned in the interest of justice, on such terms and conditions as this Hon’ble Court may deem fit and proper.”

B) Civil application stands disposed of accordingly.

C) No order as to costs.

(K.K. TATED, J.)