IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 77 OF 2018
IN
CIVIL REVISION APPLICATION (ST.) NO. 15980 OF 2017
IN
FIRST APPEAL (ST) NO. 16729 OF 2016
IN
L.A.R.NO. 207 OF 2007

The State of Maharashtra
Through,
The Special Land Acquisition Officer & Anr. ... Applicants
V/s.
Dhondiram Tulshiram Malgave ... Respondent

- Mr.A.R. Patil, Addl. Government Pleader for the Applicants.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 29th JANUARY, 2018.

P.C. :

1] This application is for condonation of delay in filing Civil Revision Application. The delay is of 336 days.

2] The cause for filing above Civil Revision Application is the conditional order passed by this Court on 06.06.2016, in the above said First Appeal granting two weeks time to pay deficit Court fees, failing which the registration was to stand automatically refused.

3] On account of non-compliance of the above order namely, the payment of deficit Court fees, the conditional order became operative and resultantly the registration of the First Appeal stood refused.

4] The order passed by the learned Registrar (Judicial-I) is referable to Rule 4 (vi) of the Chapter V of High Court (Appellate Side) Rules. Against such an order, there is a remedy of Revision provided by Rule 6 of the same Chapter. The said Rule provides that such order shall be revisable upon a regular Stamp Application, which shall be filed within 7 days from the date of the order.

5] It may be stated that First Appeal was filed by the applicant on the payment of nominal Court fees. However, as per statement made in the application for condonation of delay, acquiring body has not deposited the Demand Draft for the payment of deficit Court fees with the office of the Government Pleader, High Court, Mumbai, in time. Now the Demand Draft is received. Hence, as the delay in deposit of deficit Court fee was only on account of non receipt of the Demand Draft in time, it has to be held that sufficient cause is made out for condonation of delay and for allowing Civil Revision Application, to set aside the conditional order passed by the

Registrar(Judicial-I).

6] In identical fact situations earlier also this Court has come to the conclusion that notice to other side is not required in so far as condonation of delay in filing Civil Revision Application for setting aside the conditional order, passed by the learned Registrar (Judicial-I), of this Court. The learned AGP has also relied upon the order to that effect passed in Civil Application No.458 of 2015 in Civil Revision Application No.15443 of 2015 in First Appeal (ST) No.1514 of 2015 in L.A.R.No.188 of 2007, dated 30th September, 2015.

7] In view thereof, the present application for condonation of delay is allowed and made absolute in terms of prayer clause (b) of the said Civil Application.

8] Civil Revision Application for restoration of the First Appeal is also allowed in terms of prayer clause (b) thereof. Resultantly the First Appeal is restored to file subject to deposit of deficit Court fees within the period of 8 weeks from today.

9] Both the Civil Application for condonation of delay and Civil Revision Application are accordingly disposed of.

[DR.SHALINI PHANSALKAR-JOSHI, J.]