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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.1066 OF 2014

Bajirao G. Shinde	...Applicant
V/s.	
Nirmala U.Moodliar	...Respondent

Mr.Shiilendra Kanetkar for the Applicant.
Mr.Girish Agrawal for the Respondent.

CORAM : R.D. DHANUKA, J.
DATE : 30TH AUGUST, 2018

P.C. :-

1. By this civil revision application filed under section 115 of the Code of Civil Procedure, 1908 the applicant (original plaintiff) has impugned the order passed by the learned arbitrator below Exhibit – 1 allowing the application for condonation of delay of 275 days in filing the appeal subject to payment of costs of Rs.3,000/-.

2. The respondent had filed an application for condonation of delay explaining the reasons for the delay in filing the said appeal. She was also cross-examined by the applicant's advocate. Learned District Judge has recorded various reasons while allowing the said application for condonation of delay however, on payment of costs of Rs.3,000/-. I have perused the record including the application filed by the respondent for seeking condonation of delay. In my view, for the reasons recorded in the impugned order, condonation of delay was

justified. The respondent had sufficiently explained delay. However, the learned trial Judge could not have allowed the delay only on payment of costs of Rs.3,000/-.

3. I therefore, pass the following order :-

a). The impugned order dated 17th September, 2017 is partly modified to the extent that the respondent to pay costs of Rs.15,000/- to the applicant within two weeks from today. Upon payment of costs of Rs.15,000/- within two weeks from today, the application for condonation of delay below Exhibit – 1 stands allowed.

b). The appeal preferred by the respondent shall be heard expeditiously. Learned District Judge shall make an endeavor to dispose of the said appeal within one year from the date of communication of this order.

c). Both the parties shall co-operate with each other and also with the learned District Judge in disposing of the said appeal expeditiously and shall not ask for any unnecessary adjournment.

d). It is made clear that if the condition of payment of costs of Rs.15,000/- is not complied with as directed by this Court as aforesaid by the respondent within the time prescribed, the appeal preferred before the learned District Judge shall stand dismissed without further reference to the Court.

4. The civil revision application is disposed of in aforesaid terms.

(R.D. DHANUKA, J.)