

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**COMPANY APPLICATION NO.302 OF 2017
IN
COMPANY PETITION NO.544 OF 2008**

Excellent Projects (I) Private Limited Applicant
Versus

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Ms. Divya Srivastava for the Applicant.
Mr. N.D. Sharma for Regional Director.

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CORAM : S.C.GUPTE, J.

DATE : 9 FEBRUARY 2018

P.C. :

. Heard learned Counsel for the Applicant and the Regional Director. This application seeks condonation of a long delay in compliance with the directions issued vide order dated 22 August 2008 passed in a company scheme petition sanctioning the scheme of amalgamation in favour of the Applicant-company. The application is made in peculiar circumstances. The affidavit in support of the application is affirmed by one Vidya Mohan Nair ("Vidya"), the director of the Applicant-company. She submits that within 10 days of sanctioning of the scheme, the only two directors of the Applicant ("transferee company") who were parents of the deponent, expired, and she and her sister Divya Kunal Lala ("Divya") came to be appointed as directors on 27 October 2008 in view of the demise of both parents. On the date of their appointment as directors, both Vidya and

Divya were students. Whereas Vidya was studying in first year Mechanical Engineering at Pune, her sister Divya was in final year MBBS at Cochin, Kerala. The order sanctioning the scheme required the transferee company to lodge a copy of the order along with the scheme with Superintendent of Stamps for the purpose of adjudication of stamp duty payable, if any, within 30 days of obtaining certified or authenticated copy of the order. The order required all parties to act on a copy of the order duly authenticated by the Company Registrar, High Court, Bombay. It is submitted that since both directors of the company were studying out of Mumbai, the affairs of the company were entrusted to their uncle, C.P. Pavithran ("Pavithran"). Pavithran moved an application, being Company Application No.1105 of 2009, seeking condonation of delay in seeking certified copy of the order from the Office of the Registrar of Companies, but, for reasons not known to the present Applicant, the prayer seeking condonation of delay and extension of time for filing the certified copy of the order along with the scheme with the Superintendent of Stamps for adjudication was not applied for. The present Directors of Applicant were under an impression that the affairs of the company, including compliance with the Court orders, were being duly looked thereafter by Pavithran. It is submitted that Pavithran has now quit from the management of the affairs of the company and is not even on talking terms with the present directors. It is submitted that in the month of August-September 2016, when the deponent of the affidavit in support of the company application went through documents and proceedings, she came across a copy of the order sanctioning the scheme along with the scheme of amalgamation and learnt that paragraph-8 of the order, which required submission of documents to the Superintendent of Stamps for adjudication, remained to be complied

with. In the premises, the present company application is moved by the Applicant-company seeking condonation of delay.

2 There is no reply on the part of the Regional Director. I have, however, heard learned Counsel for the Regional Director. Learned Counsel submits that there are no particulars concerning the ages of the present directors as on the date of their appointment. Learned Counsel submits that even other important particulars are wanting in the affidavit in support of the company application.

3 In the broad facts narrated above, even if some particulars are missing, this Court is of the view that it is in the interest of justice that the delay is condoned on terms as to costs. The Company Application is accordingly allowed by condoning the delay. The transferee company, who is the Applicant herein, is permitted to submit the sanction order along with the scheme of amalgamation to the concerned Superintendent of Stamps for the purpose of adjudication of stamp duty, if any, payable on the scheme. The Applicant-company may obtain an authenticated copy of the order along with scheme and submit the same to the Superintendent of Stamps within 30 days from today. The Applicant shall pay the costs of this application quantified at Rs.50,000/- (Rs.Fifty Thousand Only) to the Regional Director.

(S.C. GUPTE, J.)