

psv

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO.1260 OF 2017
IN
APPEAL (L.) NO.107 OF 2017**

Union of India	...Applicant
In the matter between	
Union of India	...Appellant
Vs.	
Suresh Kishanchand Melwani & Ors.	...Respondents

Ms.S.I. Shah with Mr.Anil Yadav i/b. S.I. Shah & Co. for Applicant/Appellant.

Mr.D.V. Deokar with Mr.Pinakin Modi, Mr.Dhruvesh Parikh i/b. Ms.Parimal K.Shroff for Respondent Nos.1 to 28.

**CORAM : NARESH H. PATIL, ACTING C.J. AND
G.S. KULKARNI, J.**

DATE : 16th AUGUST 2018

P.C.:

This notice of motion is filed for condonation of delay caused in filing appeal.

2. It is submitted that there is delay of 476 days in filing appeal. The impugned order was passed on 17th October 2015. According to applicant, their department received the opinion of the learned Additional Solicitor General of India vide communication dated 2nd February 2016. Thereafter the department decided to challenge the order by filing appeal. The papers were forwarded to learned Advocate Ms.S.I. Shah for preparing appeal on 4th May 2016. Unfortunately, the learned Advocate

Ms.S.I. Shah suffered heart ailments and had to undergo bye-pass surgery on 12th July 2016. She thereafter suffered multiple health problems due to which the appeal could not be preferred. After regaining her health, the learned Advocate preferred appeal on 18th March 2017.

3 The learned Counsel appearing for the respondents opposed the motion for condonation of delay. He submitted that delay is not satisfactorily explained and circulating file from one table to another cannot be a ground for seeking condonation of delay.

4. True it is that it consumed considerable time to take opinion from the various departments for challenging the order, but it is stated that after the file was forwarded to the learned Advocate, she was unable to file appeal in time. According to the learned Advocate for the applicant, she had certain health issues and had to undergo bye-pass surgery. We find this to be a ground which needs to be taken into consideration. We are therefore inclined to condone the delay. The delay is condoned.

5. Notice of motion is allowed to the above extent. It is disposed of accordingly.

G.S. KULKARNI, J.

ACTING CHIEF JUSTICE