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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO.639 OF 2018 IN
APPEAL (L) NO.295 OF 2018

Zenobia Poonawala & Anr. ...Applicants
vs.
Farhad Ginwalla & Ors. ...Respondents

Ms Vasvi Saboo I/b B. Amin & Co. for the applicants
Mr.Sameer Pandit a/w Sarrah Khambati I/b M/s.Wadia
Ghandy & Co. for the respondents

CORAM : A.S.OKA, &
M.S.SONAK,JJ.
DATE : SEPTEMBER 26, 2018

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1 Heard the learned counsel for the applicants and the learned counsel for the respondents. The prayer in this Notice of Motion is for condonation of delay. There are three orders which are subject matter of challenge in the appeal which are dated 25th April 2018 and 2nd May 2018 and 1st June 2018. The delay in preferring the appeals against said order is respectively of 39, 32 and 32 days. We are not examining at this stage whether three orders can be challenged by filing one appeal. We are examining the aspect of delay. The reason given in support of the Notice of Motion is mainly in paragraph 5 of the affidavit in support which reads thus:

"5 I say that my Advocate handling the matter was out of India from 24th June 2018 to 8th July 2018 and as mentioned above various emails were exchanged between my Advocates and myself exchanging drafts of the Memorandum of Appeal and other related documents and finally the Appeal was lodged on 4th July 2018. I crave leave to rely upon the emails dated 23rd June 2018, 24th June 2018, 25th June 2018, 27th June 2018, 29th June 2018, 30th June 2018, 2nd July 2018, 3rd July 2018 and 4th July 2018 recording draft of Appeals and/or other related matters."

2 The learned counsel for the respondent submitted that the reason given in paragraph 5 is incorrect as the appeal appears to have been kept ready and filed on 3rd July 2018. He also invited our attention to paragraph 3 of the affidavit in support of the Notice of Motion.

3 From the perusal of the impugned orders, it appears that the appellant was represented by a firm M/s.B.Amin and Company. The statement in paragraph 5 of the affidavit in support is that the concerned Advocate looking after the matter on behalf of the firm was unavailable. Therefore, there is nothing wrong in the averments made in paragraph 5.

4 According to us, sufficient cause is made out to condone the delay. Accordingly, Notice of Motion

is made absolute in terms of prayer clauses (a), (b) and (c).

5 The appeal shall be listed for Admission on the date fixed as per C.M.I.S.

(M.S.SONAK,J.)

(A.S.OKA,J.)