

HON'BLE SRI JUSTICE S.V. BHATT

C.R.P.No.1672 OF 2013

ORDER:

The revision petitioner challenges the order of the learned Senior Civil Judge, Bodhan condoning the delay of 2406 days in preferring the appeal.

The first and foremost ground is that the affidavit is bereft of reasons and the appellate Court ought not to have accepted sufficient cause shown in the affidavit for condoning enormous delay of 2406 days. Secondly, the delay is shown without even putting the respondents herein on terms.

I have perused the record and taken note of the submissions. The reading of affidavit in isolation may sound that the revision petitioner is correct in his submission, but if we look at the totality of circumstances, including the relief prayed for in O.S.No.29 of 2000 and the *ex parte* decree granted in favour of respondent, this Court is of the view that to ensure adjudication of disputes on merits between the parties, the appellate Court has exercised its discretion. This Court is in agreement with the appellate Court in condoning the delay, but not in agreement in allowing the application without costs.

Hence, I.A.No.159 of 2009 is allowed subject to the respondents herein paying a sum of Rs.3,000/- (Rupees three thousand only) towards costs to revision petitioner within four weeks from today and file proof of acknowledgement of payment of amount within the stipulated time. The appellate Court considers and disposes of the appeal as expeditiously as possible preferably

within three months from the date of payment of costs by the respondents herein. The respondents are also given liberty to send demand draft to revision petitioner to the address shown in the plaint. The condition now imposed by this Court if is not complied within the time, the order in I.A.No.159 of 2009 stands recalled.

The revision is, accordingly, disposed of. There shall be no order as to costs.

Pending miscellaneous petitions, if any, stand closed.

07th September, 2018

Note:

CC in (3) days.

Lrkm



S.V.BHATT, J