

IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 369 OF 2019

IN

STAMP NUMBER MAIN NO. 59 OF 2019

RASHMIBHAI KOTECHEA AND ANR., ... Applicants

Versus

PURUSHOTTAM BHAGWAN AND
ASSOCIATES, REP. BY THEIR PARTNER,
NILESH N. SHAH AND 2 ORS., ... Respondents

Mr. Raunak Kantak, Advocate for the Applicant.

Mr. Ashwin D. Bhobe, Advocate for Respondent No.1.

Coram:- PRITHVIRAJ K. CHAVAN, J.

Date:- 20th July 2019

P.C.:

Heard Mr. Raunak Kantak, learned Counsel for the applicant and Mr. A. Bhobe, learned Counsel for respondent No. 1.

2. A delay of 303 days occurred in preferring the second appeal on account of the fact that the applicant was prosecuting the review application before the District Court as there were some errors apparent on the face of the record in the impugned judgment.

3. It is submitted by the applicant that the certified copy of the

judgment dated 22.11.2017 in Regular Civil Appeal No.72/2014 has been annexed with the record. The applicant applied for certified copy of the judgment and decree dated 22.11.2017 on 26.11.2018 which was ready on 05.12.2018. However, the application for review came to be rejected by the learned District Judge and therefore, a delay has occurred which, according to the learned Counsel, is bonafide, in support of which he has pressed into service a judgement of the Delhi High Court in the case of Om Prakash & Ors. Vs. Prem Singh,{CDJ 2016 DHC 030}. The learned Counsel drew my attention to para 3 of the judgment which reads thus:-

"3. The explanation furnished by the appellants to seek condonation of delay is that the appellants had preferred a review petition within the period of limitation before the First Appellate Court, which got decided only on 16.08.2014. The present appeal was filed within the period of limitation from the passing of the review order dated 16.08.2014. The appellants submit that the appellants had been diligently following up the matter in the review application. The appellants submit that the delay is technical in nature on account of the long time taken by the Appellate Court in deciding the review application."

4. On the other hand, the learned Counsel for the respondent No. 1 objected the application by stating that there is no

explanation of the delay from 30.10.2018 to 03.01.2019. No sufficient cause has been made out for condoning the delay.

5. After considering the respective submissions at bar and in view of the ratio laid down in the aforesaid judgment, it would be just and proper to condone the delay as the explanation is convincing and satisfactory.

6. The application is allowed. The delay of 303 days stands condoned.

7. The application stands disposed of with no order as to costs.

8. The Second Appeal be registered.

PRITHVIRAJ K. CHAVAN, J.

MF/-