

IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 683 OF 2018

IN

STAMP NUMBER MAIN NO. 2382 OF 2018

ALNAS SHAMSHUDDIN RAMJEE AND 3
ORS.,

... Applicants

Versus

SHARMILA SHAH MUZAWAR AND 9 ORS.,

... Respondents

Adv. Kaif Noorani for the Applicants.

Adv. Ivan Santimano for Respondent nos.1 & 8

Coram:- M. S. SONAK &
NUTAN D. SARDESSAI, JJ.

Date:- 4th September, 2019

P.C.:

Heard Mr. Noorani, the learned counsel for the applicants and Mr. I. Santiamano, the learned counsel for the respondent nos.1 and 8.

2. Mr. Noorani, the learned counsel states that one set of affidavit of service is already filed and the second set will be filed in the course of this week.

3. Since the service is complete, we take up the civil application for consideration.

4. By this civil application, the applicants seek condonation of delay of 168 days in instituting a first appeal.

5. For the reasons set out in the civil application, we are satisfied that sufficient cause is made out. The appellant no.4, who was pursuing the matter suffered serious heart ailment. The steps taken by appellant no.2 to pursue the matter are also set out in the civil application.

6. According to us, all these constitutes sufficient cause.

7. We have considered the reply filed on behalf of the respondent nos.1 and 8. The reply states that the reasons set out in the civil application amount to admission of negligence. We are unable to agree with such a contention, particularly when, the primary facts relating to the ailment of the applicant no.4 are not seriously disputed. No doubt, some prejudice is bound to occasion to the respondent nos.1 and 8, but this prejudice can be compensated by awarding costs.

8. Accordingly, we allow the civil application, condone the delay of 168 days in instituting the appeal. This shall be subject to payment of cost of Rs.5000/- (Rupees five thousand only) in favour of respondent nos.1 and 8 because, it is only these respondents who appeared and opposed the application for

condoning the delay.

9. Costs to be paid within two weeks from today.

10. The civil application is disposed off.

11. Place the appeal for admission after two weeks.

NUTAN D. SARDESSAI, J.

M. S. SONAK, J.

ap/-