

IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 348 OF 2019

IN

STAMP NUMBER MAIN NO. 4157 OF 2018

EXECUTIVE ENGINEER, W. D. VI (R/S
PWD) THR. AGNELO REGIS BARROS

... Applicant

Versus

MAHENDRA SATCHIDAND KAKODKAR AND 3
ORS.,

... Respondents

Mr. Sagar Gurudas Dhargalkar, Addl. Government Advocate for
the Applicant.

Mr. P. A. Kholkar with Mr. Nishant Shirgaokar, Advocate for
Respondent Nos.1(abc&d).

Coram:- S. C. GUPTE &
PRITHVIRAJ K. CHAVAN, JJ.

Date:- 19th June 2019

P.C.:

Heard learned Counsel for the applicant (original appellant)
and learned Counsel for the respondents.

2. The Misc. Civil Application is for condonation of delay of
214 days in filing of the appeal. It is stated on behalf of the
applicants that after obtaining legal opinion, a report was
prepared for filing of an appeal. The report was submitted to the
higher authority, for taking final decision on whether or not to
file appeal before this Court. It is submitted that the file,

thereafter, was not traceable in the records of the office and requisition was made to the trial court lawyer to obtain a fresh set of case papers. Since, however, the trial court lawyer did not have the case papers, the applicants had to apply for certified copies of the papers and proceedings from the court and in the process, the present delay ensued.

3. The respondents oppose the application for condonation of delay by filing a reply. It is submitted by learned Counsel for the respondents that there is no proper explanation for the entire period of delay. It is submitted that even after the trial court lawyer purportedly informed the applicants that he did not possess photo copies or duplicate case papers, there is no explanation why the applicants took 102 days for applying for certified copies of the papers and proceedings.

4. Be that as it may, on the grounds stated by the applicants in support of their application for condonation of delay, a case for condonation has been broadly made out. The applicants are entitled to condonation of delay, but must be saddled with costs.

5. Accordingly, the Civil Misc. Application is disposed of by condoning the delay and directing the Registry to register the appeal of the applicants. The applicants shall pay cost of this

application quantified at Rs. 15,000/- to the respondents. The cost of Rs.15,000/- shall be apportioned equally between the respondents. Costs to be paid within three weeks and shall be condition precedent.

6. The appeal, after it is numbered, shall be placed for admission alongwith First Appeal No. 52/2018 filed by the respondents herein.

7. Learned Counsel for the respondents waives notice of the appeal and application for stay, both of which shall be considered for admission and interim relief on 15.07.2019.

PRITHVIRAJ K. CHAVAN, J.

S. C. GUPTE, J.

MF/-