

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.71 OF 2017
IN
CIVIL REVISION APPLICATION NO.1599 OF 2017**

Union Bank of India through
its Authorized officer.

.. Applicant

Versus

Shri. Mahesh Kumar S Mody & Anr.

.. Respondents

Mr. H.P. Kar I/b Interjuris for applicant.

Mr. Amit Harishbhai Yadav for respondent Nos.1 and 2.

CORAM : K.K. TATED, J.

DATE : 7 JANUARY 2019.

P.C:-

. Heard learned Counsel for the parties.

2. By this Civil Application, applicant-Bank is seeking condonation of 82 days delay in filing Civil Revision Application.

3. Advocate Mr. H.P. Kar for the applicant submits that it was a mistake on the part of the advocate, not to file the revision application within time. In support of his contention, he has relied on the affidavit dated 28.09.2017 filed by Mrs. Nirupama Kar. He

submits that because of mistake on the part of the advocate, the applicant should not suffer. He submits that they have good chance of success in the present matter. If delay is not condoned, applicant will suffer irreparable loss.

4. On the other hand learned Counsel appearing on behalf of respondent opposed the present Civil Application. He submits that applicant failed to disclose sufficient cause for condonation of inordinate delay of 82 days in filing Civil Revision Application. He further submits that the applicant being a Bank have their own legal department, they failed to take appropriate steps to file the matter within time. Hence, there is no substance in the present Civil Application and same is required to be dismissed with cost.

5. I heard both the sides at length. Bear reading of the Civil Application shows that because of mistake on the part of the advocate, there was the delay on the part of the applicant to file Civil Revision Application. It is correct that because of mistake on the part of the advocate, applicant should not suffer. But in the present proceedings, the applicant being a Bank and having their own legal department and in spite of that they should have careful

in the matter. Considering all these facts, I am of the opinion that Civil Application is required to be allowed, but at the same time applicant to pay cost of Rs.10,000/-. Hence, following order :

- a) Delay in filing Civil Revision Application is condoned.
- b) Applicant to pay cost of Rs.10,000/- on or before 31.01.2019. Cost to be paid in the Kirtikar Law Library, High Court, Bombay and place on record receipt to that effect, failing which Civil Application shall stand dismissed without referring back to the court.
- c) If cost is paid within time, Civil Revision Application (St.) No.1599 of 2017 to be placed on board for admission on 11.03.2019.
- d) Civil Application stands disposed of accordingly.

(K.K.TATED, J.)