

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No. 162/2018
in
Appeal from Order (ST) No.2093/2018

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
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Mr. R. P. Ojha I/b. S. P. Shukla for the Applicant

Mr. Haresh K. Moghani for the Respondent

CORAM : K.K.TATED, J.
DATED : APRIL, 8, 2019

P.C.

Heard. By this Civil Application, the Applicant - Defendant is seeking condonation of 180 days delay in filing the Appeal challenging the order dated 20.06.2017 passed in the Summons for Judgment No.86/2015 in Summary Suit No.1476/2014.

2 The learned counsel for the Applicant submits that he was held up in criminal matters. Hence, there is delay in filing the Appeal from Order. He relies on para 5 of the Civil Application which reads thus:

“5. I say that, my one criminal proceedings is in process at Solapur

C.B.I. Special Sessions Court and I was held up in the said proceedings because it is under trial and I was held up in the said proceedings and running between from Vapi to Solapur to attend the said proceedings. I will crave to, leave to, refer to and rely upon the said proceedings as and when required by the Hon'ble Court."

3 The learned counsel for the Applicant submits that in the interest of justice, this Hon'ble Court be pleased to hear the matter on merits. He submits that if delay is not condoned, irreparable loss will be caused to them.

4 On the other hand, the learned counsel for the Respondent submits that if this court condones the delay, costs may be imposed on the other side.

5 Considering the submissions made by the learned counsel for the Applicant and the reasons disclosed in para 5 of the Civil Application, I am satisfied that the Applicant has made out a case for allowing the Civil Application. At the same time, the Applicant has to pay costs of Rs.5000/- to the Respondent or their advocate.

6 Hence, the following order is passed:

- a. Delay in filing the Appeal from Order is condoned.
- b. The Applicant to pay costs of Rs.5000/- to the Respondent or their advocate on or before 26.04.2019, failing which the Civil Application shall stand dismissed without further reference to the court.
- c. If cost is paid within stipulated time as stated hereinabove, Office is directed to place the matter on board on 10.06.2019, for admission.
- d. At present, no ad-interim relief.

(K.K.TATED, J.)