

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL JURISDICTION
CIVIL APPLICATION NO.1978 OF 2016
IN
FIRST APPEAL (ST) NO. 4307 OF 2016
WITH
CIVIL APPLICATION NO. 1979 OF 2016

Brihanmumbai Mahanagar Palika and Anr. .. Applicants

Versus

Omprakash and Company .. Respondent

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Ms. Oorja Dhond I/b. A. K. Savla for the Applicants.

Mr. Deepak Jamsandekar for the Respondent.

CORAM: BHARATI DANGRE, J.

DATED : 30th AUGUST, 2019.

P.C:-

1. The M.C.G.M. has instituted the First Appeal being aggrieved by the judgment dated 8th January, 2015 passed in Municipal Appeal by the Court of Small Causes, Mumbai. The appeal came to be filed alongwith Civil Application seeking condonation of delay of 311 days in filling the present appeal.

2. With the assistance of the learned counsel for the

applicants, I have perused the said application. The application is vehemently opposed by the learned counsel for the respondent and he would state that Statutory Authority have been just callous in not taking steps for not availing remedy available to it and delay do not deserve to be condoned.

3. On perusal of the application, it emerges that the impugned order was passed on 8th January, 2015 and immediately application for certified copy was made on the very next day. However, it is stated that the brief was misplaced and the Department was required to apply for certified copy of the entire proceedings. Once such proceedings being obtained, for the necessary remark from the Deputy Officer, papers were forwarded to concerned assessment department and after due consultation, the decision was arrived at by filing the appeal. It is also urged that Corporation is Public Body and property-tax is basic source of revenue and therefore, in order to do complete justice, the delay which was occasioned in filing the appeal needs to be condoned, since. any loss of revenue would be the loss to the Public Exchequer.

4. I am satisfied that reason stated in the application seeking condonation of delay is bonafide and have been sufficiently explained and it is not unusual for the Statutory Corporation with multiple department to state that its files got

lost. Resultantly, they had to apply for necessary papers and it had to undergo necessary permission and consultation. The reason appears to be bonafide to justify its condonation.

5. Resultantly, Civil Application No. 1978/2016 is allowed subject to payment of cost of Rs. 5,000/- to be paid to Kirtikar Law Library. Registry is directed to register the First Appeal after payment of cost and upon registration of the same, issue notice to the respondent, returnable after 4 weeks.

SMT. BHARATI DANGRE, J.