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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL APPLICATION No. 2917 OF 2018
(FOR RESTORATION)

IN

FIRST APPEAL (ST) No. 30721 OF 2015
(R.C. NO. 1493 OF 2016)

Shri Sachin Gangaram Main ...Applicant

Vs.

The State of Maharashtra
through Dy.Collector (Enc)
and Ors. ...Respondents

Mr. Ashutosh Mishra i/b. R.A. Yadav for Applicant

CORAM : SHRI K.K. TATED, J.

DATE : APRIL 16, 2019

P.C.:

1. Heard learned counsel Mr. Ashutosh Mishra for the Applicant.
2. After arguing for sometime, the learned counsel for the Applicant submits that the matter may be adjourned, because Advocate on record is out of Mumbai.
3. It is to be noted that, in the present proceedings, Bombay City Civil Court No.12 has passed the judgment and order dated 23rd February, 2015 in L.C. Suit No. 1568 of 2011 dismissing the suit filed by the Applicant/Plaintiff therein. Thereafter, the Applicant had filed application for certified copy on 17th March, 2015 and the same was delivered to the Applicant on 18th April, 2015. Therefore, there was delay on the part of the Applicant to file the first appeal before this Court. Hence, the Applicant has preferred the Civil Application (St) No. 30722 of 2015 for condonation of delay.
4. In the present proceedings, the Registry has raised objections. No

one appeared on behalf of Applicant before the Registrar on 11th December, 2015, 13th January, 2016 and 3rd February, 2016. Hence, the Registrar has passed conditional order on 24th February, 2016, granting four weeks' time to the Applicant to remove office objections failing which registration of First Appeal shall stand refused/dismissed.

5. As the Applicant has failed and neglected to comply with the said order, the matter stands dismissed. Thereafter, the Applicant has filed this present application on 8th March, 2018 i.e. beyond the period of limitation by 739 days. There is no proper explanation for the said inordinate delay in filing the present civil application.

6. The Apex Court in the following authorities held that for condonation of delay, Applicant must show sufficient cause. Not only that, if there is unreasonable delay, then there is no question of condoning the same. The Apex Court held that the Limitation Act, 1963 has not been enacted with the object of destroying the rights of the parties but to ensure that they approach the court for vindication of their rights without unreasonable delay. The Apex Court also held that if incorrect facts are stated in the application, then also there is no question of allowing the application for condonation of delay. Those authorities are as under:

- (1) *Balwant Singh (Dead) Vs. Jagdish Singh & Ors.* (2010) 8 SCC 685.
- (2) *B. Madhuri Goud Vs. B. Damodar Reddy* (2012) 12 SCC 693.
- (3) *Madhya Pradesh Matsya Mahasangh Vs. Sudheer Kumar & Anr.* (2010) 15 SCC 179.
- (4) *Pundlik Jalam Patil (Dead) By LRs. Vs. Executive Engineer, Jalgaon Medium Project & Anr.* (2008) 17 SCC 448.

7. Considering the judgment of the Apex Court as well as considering the facts of the present case, I do not find any reason to entertain the civil application which is barred by limitation by 739 days.

8. Hence, civil application stands rejected.

[K.K. TATED, J.]