

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

**CIVIL APPLICATION NO. 3346 OF 2017  
IN  
FIRST APPEAL (ST.) NO. 10883 OF 2017**

The Board of Trustees of the Port of Mumbai  
Vs.

.....Applicant.

Jagdishram Diwan & Anr.

..... Respondents.

.....  
Mr. Ajai Fernandes i/b. Motiwala & Co. For the Applicant.  
None for Respondents.

.....

**CORAM : K.K.TATED, J.  
DATED : JULY 23, 2019**

**P.C.**

- 1 Heard Learned Counsel for the Applicant.
2. Though the Respondents are duly served, no one appeared on behalf of them when the matter is called out.
3. The Advocate for the Applicant submits that the Respondents have filed their affidavit in reply dated 30<sup>th</sup> November, 2018. He placed on record the photo copy of the same as the original is not on record.
4. By this Civil Application, the Applicant is seeking condonation of 135 days delay in filing the First Appeal challenging the Judgment and decree dated 27<sup>th</sup> September, 2016 passed by the Bombay City Civil Court, Bombay in S.C. Suit No.

81 of 1973 dismissing the applicant's Suit for recovery possession of the suit premises and also for arrears and compensation.

5. Considering the submission made by the Learned Counsel for the Applicant and the averments made in Civil Application, I am satisfied that the Applicant has made out case for allowing Civil Application. Hence, the following order:

- a. The Civil Application is allowed.
- b. Delay in filing First Appeal is condoned.
- c. Civil Application is disposed of accordingly.
- d. No order as to costs.

**(K.K.TATED, J.)**