

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

**CIVIL APPLICATION NO.1365 OF 2019
WITH
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WITH
FIRST APPEAL (ST.) NO.10951 OF 2019**

Maharashtra State Road Transport
Corporation Limited .. Applicant

vs.

Shri Dattuprasad Dwarkadas Mittal and
Anr. .. Respondents

Mr.Pranil Sonawane for the applicant

**CORAM : K. K. TATED, J
DATE : APRIL 10, 2019**

P.C.:

. Heard.

2 By this Civil Application, Applicant is seeking condonation of 706 days delay in filing First Appeal challenging the judgment and award dated 14.03.2017 passed by MACT, Nashik in MACP No.88 of 2013.

3 The learned counsel for the Applicant submits that as soon as the judgment and award was passed by the Tribunal, they immediately applied for certified copy on 16.3.2017. Same was ready for delivery on 15.5.2017. He submits that thereafter, they filed the present First Appeal before this court on 19.4.2019.

4 The learned counsel for the Applicant submits that today there is urgency in the present matter because, Respondent original Claimant filed Execution Application and the executing court kept the matter for orders.

5 The learned counsel for the Applicant submits that there is a delay in filing First Appeal before this court because, to file First Appeal, they have to take approval from the Head Office at Mumbai. Hence, upon receipt of the impugned order, the same was communicated by Nashik Divisional Office to the Head Office at Mumbai for taking appropriate steps. Thereafter, Head Office has taken opinion from the Advocate and decided to file First Appeal. Hence, there is a delay in filing First Appeal. In support of this contention, the learned counsel for the Applicant in paragraph 2, 3 and 4 of the Civil Application which reads thus:

6 The learned counsel for the Applicant submits that in the interest of Justice this Hon'ble court be pleased to condone the delay. He submits that they have good chance of success in the present matter. He submits that if delay is not condoned, irreparable loss will be caused to the Applicant.

7 It is to be noted that in the present proceeding, there is a delay of more than 706 days delay in filing First Appeal though the certified copies were delivered to the Applicant on 15.5.2017, First Appeal was filed before this court on 19.4.2019. In the entire Civil Application, no where it is stated by the Applicant that, when Nashik Divisional Office authorities has forwarded the papers to the Head Office at Mumbai for taking appropriate steps. It is stated in the Civil Application when Head Office at Mumbai forwarded papers to the concerned advocate, they filed present First Appeal in this Hon'ble court. The said statement is made by the Applicant in paragraph 2, 3 and 4 of the Civil Application. Neither documents in support of those facts nor date is stated in application. Therefore, there is no question of allowing the present Civil Application.

8 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.

9 In view of the above mentioned facts and the law declared by the Apex Court, I do not find any substance in the present Civil Application.

10 Hence, following order is passed:

- a. Civil Application stands rejected.
- b. Hence, First Appeal (St.) No.10951 of 2019 and Civil Application No.1366 of 2019 do not survive. Same stands dismissed as infructuous.
- c. Refund of court fee as per rules.

(K.K.TATED, J.)