

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

**CIVIL APPLICATION NO.1172 OF 2016
IN
FIRST APPEAL (ST) NO. 13510 OF 2015**

Municipal Corporation of Greater
Bombay & Another

.... Applicants/Appellants

Versus

Abdul Qayyum Qareshi

.... Respondent.

Ms. Shital Mane-Tadke for the Applicant/Appellant.
Adv. Pradeep J. Thorat a/w. Adv. Aditi Naikare for the Respondent.

CORAM : K. K. TATED, J.

DATE : 18th SEPTEMBER, 2019

P.C.

Heard learned counsels for parties.

2. By this Civil Application, applicants / original defendants are seeking condonation of 140 days delay in filing First Appeal challenging the judgment and decree dated 23rd August, 2014 passed by City Civil Court at Dindoshi, Bombay in L.C. Suit No.2809 of 2009 decreeing the suit in favour of respondent/original plaintiff.

3. Learned counsel for the applicants/appellants submit that because of pressure of work, it remain to file the First Appeal within prescribed time. She submits that they have good chance of success in the present matter. She submits that in the interest of justice, this Hon'ble Court be pleased to allow the Civil Application and matter to be heard on its own merits.

4. On the other hand, the learned counsel appearing on behalf of respondent/original plaintiff vehemently opposed the present Civil Application. He submits that, applicants failed to disclose the sufficient cause for condonation of delay. He submits that as per impugned judgment and decree dated 23.08.2014, the respondent reconstructed the suit structure. Therefore, nothing will survive in the present proceeding itself. Hence, the Civil Application is required to be dismissed with costs.

5. I heard both counsels at length. It is to be noted that delay on the part of the applicants to file the present First Appeal, is caused due to pressure of work, or on other ground, as stated in Civil Application.

6. Considering the submission made by the learned counsel for the applicant and averments made in Civil Application, I satisfied that applicants have made out a case for allowing this Civil Application. Hence, the following order -

- (i) Delay in filing First Appeal is condoned.
- (ii) Civil Application stands disposed of accordingly.
- (iii) No order as to costs.

[K. K. TATED, J.]