

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 3217 OF 2015
IN
FIRST APPEAL STAMP NO. 14258 OF 2015

Haryana Urban Development Authority	.. Applicants
Vs.	
NOCIL Limited	.. Respondents

Mr.R.N.Goankar a/w Ms.Mahi Zulka I/b Mr.Ashok Singh, for the Applicants.
Ms.Subhasree Chatterjee I/b M/s.Manilal Kher Ambalal & Co.,
for the Respondents.

CORAM : K.K.TATED, J.

DATE : 20th AUGUST, 2019

P.C. :

. Heard learned Counsel for the parties.

2. By this Civil Application, applicants – original defendant are seeking condonation of 186 days delay in filing First Appeal challenging judgment and decree dated 27 & 28th August 2014 passed by the Bombay City Civil Court at Bombay

in Short Cause Suit No. 9953 of 1990 (High Court Regn. Suit No. 2303 of 1990).

3. Learned Counsel for the applicants submits that before filing any litigation on behalf of the applicants, they have to take approval from the several departments. He submits that in taking approval from several departments, there is delay in filing the First Appeal. He further submits that even the concerned Advocate to whom the matter was assigned for drafting of appeal memo also took some time. Hence, there is delay in filing First Appeal. He submits that they have good chance of success in the present matter. He submits that in the interest of justice, this Hon'ble Court be pleased to condone the delay in filing First Appeal and matter to be heard on its own merits.

4. On the other hand, learned Counsel Ms.Subhasree Chatterjee appearing on behalf of the respondents – original plaintiffs opposes the present Civil Application. She submits

that applicant failed to disclose sufficient cause for condonation of delay. Hence, there is no substance in the present Civil Application and the same is required to be dismissed with costs.

5. I have heard both the Advocates. It is to be noted that before filing any litigation on behalf of the applicants, they had to take approval from the higher authorities. Therefore, there is delay in filing the First Appeal. It is to be noted that the Apex Court in the matter of *N.Balkrishnan Vs. M. Krishnamurthy (1998) 7 SCC 123* held that the object of fixing the time limit is not meant to destroy the rights. The law of limitation fixes a lifespan for such legal remedy for the general welfare.

6. Considering the submissions made by learned Counsel for the applicants and the averments made in the Civil Application and the law declared by the Apex Court in the case of *N.Balkrishnan (surpa)*, I am satisfied that the applicants have made out a case for allowing Civil Application, but they have to

pay costs of Rs.5,000/- to the respondents. Hence, the following the order.

ORDER

- 1) Delay in filing the First Appeal is condoned.
- 2) The applicants to pay costs of Rs.5,000/- to the respondents or their Advocate on or before 07/09/2019, failing which Civil Application shall stand dismissed without further reference to the Court.
- 3) Civil Application stands disposed of accordingly.

(K.K.TATED, J.)