

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No. 842/2018
in
Appeal from Order No.598/2018

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
Mr. Shashank C. Thatte with V. Pawar for the Applicant	

CORAM : K.K.TATED, J.
DATED : APRIL, 8, 2019

P.C.

Heard. By this Civil Application, the Applicant is seeking condonation of 2 years and 135 days delay in filing the Appeal challenging the order dated 21.10.2015 passed by the Bombay City Civil Court, Mumbai in Notice of Motion No.3994/2014 in S.C.Suit No.7219/2005.

2 The learned counsel for the Applicant submits that the Trial Court has passed a common order dated 21.10.2015 in two Notices of Motion. He submits that they had filed Civil Revision Application No.532/2016 which was disposed of on 19.12.2017 and thereafter the Applicant decided to

challenge the order dated 21.10.2015 in second Notice of Motion No.3994/2014. Hence, there is delay in filing the Appeal from Order. He submits that in the interest of justice, this Hon'ble Court be pleased to condone the delay in filing the Appeal from Order. He submits that the Applicant has good chance of success in the matter. He submits that if the delay is not condoned, irreparable loss will be caused to the Applicant. On the basis of this submission, the learned counsel for the Applicant submits that the delay in preferring the Appeal may be condoned.

3 It is to be noted that in the present proceedings the Trial Court has passed the impugned order on 21.10.2015 in Notice of Motion No.3994/2014. Thereafter the Applicant made an Application for certified copy on 04.12.2015 which was ready on 07.12.2015. Though the certified copy was ready on 07.12.2015, the Appeal from Order was filed by the Applicant on 27.06.2018. The reasons given by the Applicant about filing of the Civil Revision Application No.532/2016 in connected matters cannot be a ground for condonation of delay. Though the learned counsel for the

Applicant has relied on the averments made in the Civil Application, not a single document is annexed in support of those averments. Hence, I do not find any reason to condone the inordinate delay in filing the Appeal from Order.

4 Hence, the following order is passed:

- a. The Civil Application stands rejected.
- b. In view of rejection of the Civil Application, the registration of the Appeal from Order stands rejected.
- c. At this stage, the learned counsel for the Applicant submits that in view of pendency of the present proceedings, it remained on their part to file written statement. he seeks liberty to file the same.
- d. Liberty granted to the Applicant to file an Application for filing the written statement. The Trial Court is directed to decide the said Application on its own merits, without being influenced by this order.

(K.K.TATED, J.)