

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 2262 OF 2017
WITH
FIRST APPEAL (ST) NO. 20703 OF 2017
WITH
CIVIL APPLICATION NO. 2263 OF 2017

Reliance General Insurance Company Ltd .. Applicant

V/s.

Smt. Hasimunissa Sakir Ali Shah & Ors. .. Respondents

Mr. Rahul Mehta I/b KMC Legal Venture for the Applicant.
None for Respondents.

CORAM: K.K.TATED, J.
DATED : 23/09/2019

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 called out.

3 By this Civil Application, Applicant Insurance Company is seeking condonation of 1 year and 142 days delay in filing First Appeal challenging the judgment and award dated 10.10.2015 passed by the MACT, Mumbai in Petition No. 634 of 2012.

4 The learned Counsel for the Applicant submits that as soon as the impugned Judgment and Award passed by the Tribunal, they immediately applied for Certified Copy on 12.10.2015. The same was ready for delivery on 30.11.2015 and collected by them on 04.12.2015.

5 The learned Counsel for the Applicant submits that for filing First Appeal on behalf of Insurance Company, they have to take approval from several departments. Hence, there is a delay in filing First Appeal before this court. In support of his contention, he relied on paragraphs 4 to 7 of the Civil Application.

6 The learned Counsel for the Applicant submits that they have good chance of success in the present proceeding. He submits that in the interest of justice this Hon'ble Court be pleased to condone the delay and matter be heard on its own merits.

7 Bare reading of Civil Application, shows that delay occurred on the ground that they have to take approval from several departments for filing First Appeal.

8 It is to be noted that this court in the matter of **Special Land Acquisition Officer & Anr. Vs. Jose Prazeres de Piedade Pinto 2006(2) BCR 773** held that the delay caused because of movement of file from one table to another cannot be considered as a good ground for delay. Para 12 of the said judgment reads thus:

12. The delay merely because it has occasioned in a matter relating to land acquisition case involving public money, condonation thereof cannot be construed as a matter of right to the Government. In case of delay, it is necessary for the Government machinery to furnish the necessary satisfactory explanation for such delay. In case the delay has occurred on

account of either willful acts on the part of the concerned officer/ s or for any other reason, which could even defeat the rights of the Government or the acquiring body in relation to the provision for appeal against the award passed by the Reference Court, the mere statements regarding the movement of the file from one office to the other office, from one table to the other table cannot be construed as satisfactory explanation for the delay in filing the appeal. In the case in hand, as already observed above, merely stating that the file moved from one office to another, either for opinion or for preparation of financial report, no explanation has been placed on record as to why it took particular number of days for obtaining either the opinion of the Law Department or for preparing the financial implication report by the Executive Engineer. It apparently discloses total failure on the part of the applicants in explaining the cause for the delay of 281 days in filing the appeal as well as 51 days' delay in filing the application for condonation of delay.

9 The apex court in the matter of **Office of the Chief Post Master General & Ors. Vs. Living Media India Ltd. & Anr. 2012 ALL SCR 892** held that the delay attributable to impersonal machinery and bureaucratic methodology cannot be a ground for condonation of delay. Para 13 of the said judgment reads thus:

“13. In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red-tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to

us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay. Accordingly, the appeals are liable to be dismissed on the ground of delay.”

10 In view of the above mentioned facts and the law declared by this court as well as the apex court, I do not find any substance in the Civil Application.

11 Hence, the following order is passed:

- a. The Civil Application for condonation of delay is rejected.
- b. Registration of the First Appeal stands rejected.
- c. In view of the dismissal of the Civil Application for condonation of delay, the Civil Application for stay stands rejected as infructuous.

(K.K.TATED, J.)