

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
Civil Application No.3818/2015
in
First Appeal (ST) No.21709/2015

Bajaj Allianz General Insurance Applicant

Vs.

Shri Sunil Rajaram Waje & Anr. Respondents

Mr.M.M.Sathaye for the Applicant

Mr. Rahul Mehta I/b. KMC Legal Venture for Respondent
No.1.

CORAM: K.K.TATED, J.
DATED : OCTOBER 3, 2019

P.C.

1 Heard. This Application is for condonation of 305 days delay in preferring the appeal challenging the judgment and award dated 09.05.2014 passed by the MACT, Mumbai in application No.1379/2008 holding that the Respondent-Claimant is entitled to compensation of Rs.1,69,720/- inclusive of NFL with interest thereon @ 7.5% p.a. from the date of filing the application till realisation.

2 The learned counsel for the Applicant submits that immediately the impugned judgment and award was passed, they applied for certified copies on 22.07.2014 and same was ready for delivery on 19.09.2014. He submits that for filing an appeal on behalf of the Insurance Co., they have to take opinion from the concerned advocate. Not only that they have to take approval from several Departments of the Company. He submits that in the meanwhile till midst of

February 2015 the Appellant tried to settle the matter with the original claimant but in vain. He submits that because of heavy workload, it remained on their part to file the First Appeal within time. In support of this contention, the learned counsel for the Applicant relies on para 9 of the Civil Application. He submits that they have good chance of success in the matter. He submits that in the interest of justice, this Hon'ble Court be pleased to condone the delay in filing the First Appeal. He submits that if delay is not condoned, irreparable loss will be caused to them. He submits that the matter may be decided on merits.

3 On the other hand the learned counsel for the Respondent No.1 claimant has vehemently opposed the Civil Application. He submits that the Applicant has failed to show sufficient cause for condonation of inordinate delay in filing the First Appeal. Therefore, there is no substance in the Civil Application and same is liable to be dismissed with costs.

4 Bare reading of the Civil Application shows that before filing the First Appeal, the Applicant has to take approval from several Departments. Not only that they have to take legal advice from the panel advocate. Apart from that the reasons given by the Applicant that till midst of February 2015 they tried to settle the dispute. It is to be noted that about settlement process, the Applicant has not placed on record a single document, to show that till February 2015 they tried to settle the matter with the original claimant. In any case, heavy workload cannot be a ground for delay in

filing the appeal.

5 Movement of the file from one Department to other Department, cannot be a good ground for condonation of inordinate delay. 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 wilful 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.

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.”

6 Considering the above mentioned facts and the law declared as stated hereinabove, I do not find any substance in the Civil Application.

7 Hence, following order is passed:

a. The Civil Application for condonation of delay stands dismissed.

b. In view thereof, registration of the First Appeal

stands rejected.

c. Amount of Rs.25000/- deposited by the Appellant at the time of filing the First Appeal be transferred to the MACT, Mumbai in the account of MACP No.1379/2008.

(K.K.TATED, J.)