

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
Civil Application No. 975/2018

in
Appeal from Order No.805/2015

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
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Mr. R. R. Singh I/b. S. H. Mishra for the Applicant

Mrs. Savina Bangera for the Respondent

CORAM : K.K.TATED, J.
DATED : APRIL 11, 2019

P.C.

Heard. By this Civil Application, the Applicant - Plaintiff seeks condonation of 9 days delay in filing the Civil Application No.527/2017 to bring the legal heirs on record of deceased sole Respondent Shantabai Sakhararam More who died on 11.01.2017.

2 The learned counsel for the Applicant submits that from the day of knowledge, there is delay of 9 days in filing the Civil Application to bring the legal heirs on record of deceased sole Respondent. He submits that in the interest of justice, this Hon'ble Court be pleased to condone 9 days delay in

filing the Civil Application to bring on record the legal heirs of the sole Respondent. He submits that, if delay is not condoned, irreparable loss will be caused to them.

3 On the other hand, the learned counsel for the sole Respondent has vehemently opposed the Civil Application. He submits that the sole Respondent expired on 11.01.2017. The Civil Application No.527/2017 was filed by the Applicant on 15.04.2017 to bring the legal heirs on record of the sole deceased Respondent. He submits that there is delay of more than 1 year and 141 days. He submits that the Applicant has not shown sufficient cause for condonation of more than 1 year and 141 days in filing the Application to bring the legal heirs on record of deceased Respondent. He submits that the Applicant has made incorrect statement in the Civil Application. He submits that in para 27 of the Civil Application, the Applicant has stated that the sole Respondent died on 11.01.2017. It is specifically stated in paragraph 5 of the Civil Application, there is delay of only 35 days in filing the Civil Application. Because of this incorrect statement on solemn affirmation, there is no

question of entertaining the Civil Application for condonation of delay. He submits that in the interest of justice, this Hon'ble Court be pleased to dismiss the Civil Application.

4 Heard both sides at length. It is to be noted that the sole Respondent expired on 11.01.2017 and the Civil Application was filed on 03.08.2018. The Applicant made a prayer for condonation of 9 days delay in filing the Civil Application.

5 Bare reading of para 2 of the Civil Application shows that there is delay of more than 1 year and 141 days in filing the Civil Application. There is no explanation of inordinate delay in filing the Civil Application.

6 The Apex Court in the following authorities held that for condonation of delay, Applicant must show sufficient cause. Not only that, if there is unreasonable delay, then there is no question of condoning the same. The Apex Court held that the Limitation Act, 1963 has not been enacted with the object of destroying the rights of the parties but to ensure that they approach

the court for vindication of their rights without unreasonable delay. The Apex Court also held that if incorrect facts are stated in the application, then also there is no question of allowing the application for condonation of delay. Those authorities are as under:

(1) Balwant Singh (Dead) Vs. Jagdish Singh & Ors. (2010) 8 SCC 685.

(2) B. Madhuri Goud Vs. B. Damodar Reddy (2012) 12 SCC 693.

(3) Madhya Pradesh Matsya Mahasangh Vs. Sudheer Kumar & Anr. (2010) 15 SCC 179.

(4) Pundlik Jalam Patil (Dead) By LRs. Vs. Executive Engineer, Jalgaon Medium Project & Anr. (2008) 17 SCC 448.

7 In view of the above mentioned facts and making incorrect statement on solemn affirmation, the Applicant has failed to make out any case for allowing the Civil Application.

8 Hence, the Civil Application stands rejected.

(K.K.TATED, J.)