

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

**CRIMINAL APPLICATION NO.1837 OF 2018
WITH
CRIMINAL APPLICATION NO.1838 OF 2018
IN
CRIMINAL APPEAL (ST.) NO.1307 OF 2018**

Span Hill Resorts Pvt. Ltd. and Ors. ...Applicants
vs.
State of Maharashtra and Ors. ...Respondents

Mr. S.S. Deshmukh, for the Applicants
Mr. V.B. Konde-Deshmukh, APP for the Respondent-State.
Mr. N.K. Dayananda i/b. Mr. J.B. Kuadanmal, for Respondent
No. 2.

**CORAM : S.S. SHINDE &
N.B. SURYAWANSHI, JJ.**

DATE : OCTOBER 11, 2019

P.C.:

. Learned counsel appearing for Respondent No. 2 tenders
across the bar reply to the application for condonation of delay.
The same is taken on record.

2. Learned counsel for the Applicants invites our attention to
the averments in the application for condonation of delay and
submits that, the order dated 1st June, 2017 passed in Misc.
Application No. 324 of 2015 by the Special Court, Mumbai was

exparte, in as much as, no Court notice was issued to the applicants and applicants did not receive the private notice as well.

3. It is submitted that the Court did not issue notice and passed the exparte order, and the applicants came to know on 10th April, 2018 about the said exparte order from E.O.W, Mumbai. Thereafter, the applicants had taken immediate steps to challenge the said order. Therefore, relying on the averments in the application, learned counsel for the applicants submits that the application may be allowed.

4. On the other hand, learned counsel for Respondent No. 2 relied upon the averments in the affidavit in reply and submits that, private notice was served upon the applicants Span Hill Resorts Pvt. Limited and in spite of such service, the applicants did not appear. Therefore, it cannot be said that order dated 1st June, 2019 passed by the Special Court, Mumbai is exparte.

5. Upon appreciating the rival contentions of the learned counsel for the parties, and on perusal of the documents placed

on record, it is clear that the concerned Court did not issue Court notice and passed the order dated 1st June, 2019, without hearing the applicant. Therefore, learned counsel appearing for the applicants is right in his submission that the said order was exparte and the applicants came to know about passing of the exparte order in the month of April, 2018 and thereafter an immediate steps have been taken to file the Appeal.

6. In that view of the matter, delay in filing the Appeal deserves to be condoned. Accordingly, Civil Application is allowed. Delay in filing the Appeal (St.) No. 1307 of 2018 stands condoned.

7. Civil Application No. 1837 of 2018 is disposed of.

8. Registry shall forthwith register the Appeal and list the same for hearing on 18th November, 2019.

(N.B. SURYAWANSHI, J.)

(S.S. SHINDE, J.)