

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.591 OF 2019
IN
APPEAL (L) NO.280 OF 2018
IN
ARBITRATION PETITION NO.846 OF 2016

The Municipal Corporation of Greater Mumbai ..Applicant

IN THE MATTER BETWEEN

The Municipal Corporation of Greater Mumbai ..Appellant

Versus

Kekobad Dossabhoy Doongriwalla & Anr. ..Respondents

Mr. R. S. Apte, Senior Advocate a/w Mr. Sagar Patil, Advocate for the Applicant.

Mr. Rohan Savant i/by Purnanand & Co., Advocate for the Respondents.

CORAM : PRADEEP NANDRAJOG, C.J. &
SMT. BHARATI DANGRE, J.
DATE : 17th DECEMBER, 2019

P.C.

1] The Appeal preferred by the Applicant was scrutinized at the Registry and on 20.07.2018 the Prothonotary and Senior Master of this Court granted time of one month to remove office objections by 20.08.2018, passing peremptory direction that if by said date objections were not removed the Appeal would be automatically dismissed. Notwithstanding the peremptory order, further time was granted for removing office objections with a peremptory direction on

14.02.2019 that if office objections were not removed within the time granted, the Appeal be treated as having been dismissed. Vide Notice of Motion No.591 of 2019 restoration of the Appeal is prayed for with further request that the delay in preferring the application, which is of 243 days, be condoned.

2] It is pleaded that the Applicant first learnt about the dismissal of the Appeal on 14.02.2019 when in a Commercial Review Petition this fact was brought to their notice by the opposite side on 12.03.2019.

3] Suffice it to state the opposite side was not to inform the Applicant the fate of the Appeal filed by the Applicant. It was for the Applicant to have prosecuted this Appeal with diligence.

4] The Applicant was informed by the Prothonotary and Senior Master on 20.07.2018 that the filing was defective and defects have to be removed within 30 days. The defects not being removed within 30 days, time was granted for removal of the defects till 14.02.2019.

5] Under the circumstances, we find no facts disclosed to the Court for condoning the delay in seeking restoration of the Appeal. Further, no sufficient cause has been shown for the Appeal to be restored.

6] The Notice of Motion is accordingly dismissed.

Balaji
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Panchal
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Balaji G.
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SMT. BHARATI DANGRE, J

CHIEF JUSTICE