

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO. 346 OF 2019**

Anil Kumar	...Applicant
Versus	
Ultratech India Ltd. & Anr.	...Respondents

Mr. Anil D. Joshi for the Applicant

Mr. Omar Khaiyam Shaikh for the Respondent Nos. 1 and 2

CORAM : REVATI MOHITE DERE, J.
TUESDAY, 18th FEBRUARY 2020

P.C. :

1 Heard learned counsel for the parties.

2 By this revision application, the applicant has impugned the order dated 22nd November 2018 passed by the learned District Judge-6, Thane in Civil Misc. Application No. 143/2017, by which the learned Judge was pleased to allow the respondents' application seeking condonation of delay in filing regular Civil Appeal against the judgment and decree dated 25th February 2016 passed by the learned Joint Civil Judge, Senior Division, Thane in Special Civil Suit No. 426/2015.

3 Learned counsel for the applicant assailed the impugned order on several grounds. He submitted that the respondents/defendants had not

approached the Court with clean hands. He further submitted that despite summons being served on the authorized representative of the respondent company, the respondents are denying the signature of the said representative i.e. Shruti Patil. He further submitted that the learned Judge ought not to have condoned the delay caused in filing the appeal, in the peculiar facts of this case. According to the learned counsel for the applicant, the Bailiff had served the summons on the authorized representative and that Shruti Patil had signed the same. He submitted that a seal of the company was also affixed on the summons.

4 Learned counsel for the respondents opposed the revision application. He submitted that no interference is warranted in the impugned order. He further submitted that the evidence of Shruti Patil clearly shows that the signature appearing on Exhibit 5 i.e. the summons report is not her signature and that she has not put any signature on the said document i.e. summons.

5 Perused the papers as well as the impugned order. The applicant is the original plaintiff, who has filed Special Civil Suit No. 426 of 2015 as against the respondents (original defendants) for recovery of an

amount of Rs. 24,96,192 i.e. the salaries due to him along with damages, etc. on account of the illegal termination of the contract of employment. According to the applicant/plaintiff, the summons was duly served by the Bailiff and that there is a signature of one Shruti Patil on the said summons as well as the seal of the company, whereas, according to the learned counsel for the respondents/defendants, summons was not duly served on the respondents/defendants and that the signature was not that of Shruti Patil. It appears that as the respondents/defendants failed to appear in the said Suit, the Suit proceeded ex-parte and the trial Court decreed the said Suit vide judgment and decree dated 25th February 2016. Pursuant thereto, the respondents/defendants filed a Regular Civil Appeal in the District Court along with a Civil Misc. Application No. 143/2017 and prayed for condonation of delay in filing the said appeal. The trial Court, after considering the reasons for filing the said appeal belatedly, condoned the said delay. The Appellate Court, in paras 11 and 12 have set out in detail the reasons for condoning the delay. No perversity can be found in the impugned order dated 22nd November 2018, warranting interference.

6 Accordingly, the revision application, being devoid of merit, is dismissed. The trial Court to decide the appeal filed by the respondents/defendants on its own merits, uninfluenced by the observations

made by the said Court on merits of the case, in the impugned order dated 22nd November 2018. All contentions of all the parties are kept open.

7 Since the applicant is a senior citizen, the hearing of the appeal is expedited. The Appellate Court to decide the said appeal as expeditiously as possible and in any event, within six months from the date of receipt of this order. The Appellate Court shall also decide all interim applications as expeditiously as possible, before hearing the appeal.

8 All parties to cooperate in the hearing of the said appeal.

9 The application is disposed of on the aforesaid terms.

10 All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.