

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 2839 OF 2017
IN
FIRST APPEAL (ST.) NO. 8957 OF 2017**

Chittaranjan Chandrabhan Sharma
(Since died through his legal heirs)

... Appellants

Vs.

Mumbai Metropolitan Regional
Development Authority

...Respondent

Mr. Kevin Perera i/b Ms. Jaswandi Khatu, Advocate for the
applicant/appellants.
None for the Respondent.

**CORAM : ABHAY AHUJA, J
DATE : 4TH OCTOBER 2021**

P. C.

1. Heard learned counsel for the applicant.
2. Learned counsel submits that there has been a delay of 26 days in preferring the appeal against the judgment dated 30th September 2016 in Civil Suit No. 899 of 2008, whereby the Bombay City Civil Court has dismissed the applicant's suit.
3. Learned counsel for the applicant draws attention of the Court to paragraph no. 3 of the application to explain the delay in filing of the appeal.

4. A perusal of the said explanation indicates that there were settlement talks between the applicants and the respondent and to put an end to the dispute, the respondent had already taken possession of two flats in the new building, which is constructed by the applicant. It is observed from the said paragraph that initially the respondent had shown willingness to settle the matter by handing over the flat to the applicant, but the same has not been vacated nor the possession thereof has been handed over.

5. It is submitted that there has been a delay of 26 days in filing the appeal. Learned counsel for the applicant draws attention of this Court to the page no. 72 of the appeal, which is the letter dated 2nd July 2004 by the respondent to the applicant, where it is recorded that instead of compensation, applicant is willing to accept TDR for land.

6. From the record it is observed that respondents have been served with copy of this application on 9th July 2019. There is an affidavit of service to that effect. Copy thereof has been tendered across the bar by the counsel for the applicant.

7. It is observed that despite the service, none appeared for the respondent when the matter is called out today nor any affidavit in reply has been filed on behalf of the respondent.

8. Having heard the learned counsel for the applicant and having perused paragraph no. 3 of the application, this Court is of the view that there is sufficient cause to condone the delay of 26 days in preferring the first appeal. Delay of 26 days is accordingly condoned.

9. Civil Application stands disposed.

10. List the first appeal for admission on 11th October 2021.

(ABHAY AHUJA, J.)