

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

**CIVIL APPLICATION NO.4043 OF 2016
IN
FIRST APPEAL (ST) NO.18249 OF 2016**

Punjab National Bank

... Applicant

Vs.

The Board of Trustees of the
Port of Mumbai & Ors.

... Respondents

Ms. Rajlaxmi Punjabi i/by Mable & Associates for applicant.

Mr. Siddharth Chhabriya, counsel a/w Ms. Arundhati Korale i/by
Motiwalla & Co. for respondents.

CORAM: ABHAY AHUJA J.

DATE : 18TH SEPTEMBER, 2021

P.C.:

1. Heard. Learned counsel for applicant submits that there is a delay of 184 days in preferring the appeal against the judgment and award dated 30th November, 2015 passed by the City Civil Court at Mumbai in S.C. Suit No.3220 of 2010.

2. Learned counsel draws the attention of this court to paragraph 2 of the application to explain sufficient cause. She submits that although the judgment was passed on 30th November, 2015, the then advocate for applicant, viz., original defendant No.2

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had returned the brief around February, 2016 as he had left his practice and migrated to South. She submits that thereafter applicant lost track of the matter as there were several other matters to be handled and thereafter the applicant's officer after taking legal advice and the necessary approvals took time in filing of the appeal belatedly by 184 days.

3. Respondent No.1 has filed an affidavit in reply opposing the said application. He submits that the delay in filing the appeal cannot be condoned as the respondent No.1 acquired a vested right due to the delay. He draws the attention of this Court to paragraphs 1, 4(b), 4(c), 4(d) and 4(e) of his reply in support of his case.

4. Heard the learned counsel for the parties and also with their able assistance perused the application as well as the reply.

5. It is observed from the application that the judgment and order was passed on 30th November, 2015 and it is only in the middle of February, 2016 that the earlier advocate returned the briefs as he had left his practice and thereafter the applicant Bank lost its track and subsequently pursuant to legal advice, the appeal

came to be filed.

6. It is settled law that delay caused on account of the act or omission of counsel should not affect the rights of the parties. In this view of the matter, this Court is of the view that there is sufficient cause in condoning the delay of 184 days. The delay is accordingly condoned.

7. Civil Application accordingly stands disposed of.

8. List the appeal as well as the application for stay for hearing on 20/10/2021.

(ABHAY AHUJA, J.)