

IN

FIRST APPEAL NO.1453 OF 2009

Roozbeh Mundegar Aga] **Applicant**

IN THE MATTER BETWEEN:

Roozbeh Mundegar Aga] **Appellant**

Vs.

Poornima Pandurang Prabhu and]

another.] Respondents

1. Satish Pandurang Prabhu & Anr.] Respondents

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Mr. V.Y. Sanglikar, for Applicant.

Ms. Sheetal Mane, for Respondent No.2-M.C.G.M.

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CORAM : PRITHVIRAJ K. CHAVAN, J.

DATE : 20th JANUARY, 2021.

(Through Video Conferencing)

P.C.

1. This is an application for condonation of delay of 553 days for bringing legal representatives of the deceased respondent No.1 on record.
2. Heard the learned Counsel for the applicant for some time.
3. Learned Counsel for the applicant has drawn my attention to paragraph 6 of the application wherein the grounds for condoning the delay have been incorporated. From the contents of the

application the reasons for delay are that the first appeal was wrongly being shown as dismissed and, therefore, the applicant was busy in rectifying the said mistake which took some time. Secondly, litigation between respondent No.1 in respect of the suit premises is going on in the Court of Small Causes at Mumbai bearing R.A.E suit No.109 of 2007 wherein deceased respondent No.1 was defendant No.1.

4. The application is opposed by the C.A of the opponent vide reply dated 11th April, 2019 by taking various grounds including that the applicant has no locus to file the present appeal. It is also objected on the ground that the name of the opponent is wrongly mentioned as “Rita Devdata Kamat” which, according to the opponent is “Chitra Gurudatt Kamat”.

5. No reply has been filed by the Corporation.

6. None appears for the opponents, despite calls.

7. I do not find any reason for not condoning the delay, of course, by saddling some costs upon the applicant for the delay which has occurred in filing the application.

8. As such, the delay of 553 days is condoned subject to deposit of costs of Rs.5,000/-, which shall be deposited in the Court within one week from today.

9. After depositing the costs, the delay shall stand condoned and thereafter, the applicant shall carry out the amendment by incorporating the legal representative of the opponent on record within one week thereafter.
10. After carrying out the amendment, amended copy of the appeal memo shall be furnished to rest of the parties.
11. The application stands disposed of.
12. The applicant is permitted to correct the name of the legal representative of respondent No.1 as “Chitra Gurudatt Kamat” instead of “Rita Devdata Kamat”.
13. This order will be digitally signed by the Personal Assistant of this Court. All concerned shall act on production by fax or e-mail of a digitally signed copy of this order.

[PRITHVIRAJ K. CHAVAN, J.]