

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****CIVIL REVISION APPLICATION NO. 242 OF 2021**

Smt. Gulabidevi Ramjivan Shukla (since deceased .Applicants.
through Lrs.) Mr. Ashok Shukla & anr.

Vs.

Asharam Mitrasen Jain (since deceased .Respondent.
Through Lr.) Mr. Anant Jain

Mr. Sujeet R. Bugade, Advocate, for the Applicants.
Mr. Shreepad Murthy a/w Mr. Abhishek Patil & Mr. Ingrid Cyril Gomes i/b.
Mr. N. Raja, Advocate, for the Respondent

CORAM : A. S. GADKARI, J.
DATE : 16th DECEMBER, 2021.

P.C.:-

. The Applicants – original defendants/ tenants, have preferred the present Revision against the impugned Order dated 11.10.2021 passed in Marji Application No. 143 of 2021 in Appeal Stamp No. 332 of 2021 in R. A. E. Suit No. 1276 of 1999. By the said order, the Appellate Bench of the Court of Small Causes, Mumbai has rejected the Application preferred by the Applicants for condonation of delay of 658 days in preferring the Appeal against the Judgment and Order dated 25.04.2018 passed in the said suit.

2. Heard Mr. Bugade, learned Advocate for the Applicants and Mr.

Murthy, learned counsel for the Respondent. Perused entire record.

3. Record indicates that, on an earlier occasion i. e. 25.09.2000, the present suit was decreed ex-parte against the Applicants. In an Appeal by the Applicants, the Appellate Bench was pleased to set aside the said ex-parte decree by its Judgment and Order dated 31.10.2001 and restored the suit to its file. Applicants, thereafter, filed Written Statement on 10.12.2001. The record further indicates that the Applicants were being represented by an Advocate namely Mr. S. R. Pandey who appeared in the matter.

4. The Trial Court by its Judgment and Order dated 25.04.2018, again decreed the said suit and has directed the Applicants to handover vacant possession of the suit premises within stipulated period, as has been specifically mentioned in para 2 of the operative part of the Judgment and Order dated 25.04.2018.

5. The Applicants, thereafter, preferred an Appeal against the said Judgment and Order dated 25.04.2018. As there was a delay of 658 days in preferring the said Appeal, Applicants filed an Application for condonation of delay being Marji Application No. 143 of 2021. It is the contention of the Applicants that, they are the only legal heirs of deceased (original defendant); their mother, Smt. Gulabidevi Shukla was suffering from heart disease since 2015 and had to shift to Janupur, Uttar Pradesh for further treatments; Applicants were engaged in taking care of their mother. That their mother/original defendant passed away on 30.04.2020. It is the

further contention of the Applicants that, their Advocate, Mr. Pandey had shifted to Australia and therefore, the said suit could not be diligently perused by them. Inter alia the Applicants have also put some burden on Mr. Pandey, who was representing them before the Trial Court. Trial Court by the impugned Order dated 11.10.2021 has rejected the said Application.

6. Perusal of Application for condonation of delay i.e. Marji Application No. 143 of 2021 indicates that, it is as vague as possible. No details of any sort regarding ailment suffered by the mother of the Applicants, Smt. Gulabidevi Shukla have been mentioned in para 3 thereof. The Appellate Bench in para 9 has observed that the Applicants have produced on record a medical document issued on 31.03.2020. As noted above, the Applicants have not produced on record any document in support of their contention that their mother was suffering from heart disease since 2015.

7. As far as blaming Advocate Mr. Pandey in not diligently pursuing the matter is concerned, at the outset, it is to be noted here that, the litigants/clients cannot be heard to raise a spacious plea that, there was a communication gap between him and his Advocate. Many a times, the litigants carry the wrong impression that, once an advocate is briefed in a case, it is the duty of the concerned Advocate to take care of the case at all stages, till the litigation comes to an end. It is the settled position of law that, it is the equal responsibility of the clients/litigants to follow up their

own matter with their Advocate and not to blame their Advocate for the lapses committed by the litigants. In view thereof, the blame put on their Advocate by the Applicants cannot be accepted.

8. As noted earlier, perusal of delay condonation Application would indicate that, no explanation least to say satisfactory explanation has been offered by the Applicants for condonation of such an inordinate and colossal delay in filing the said Application.

9. After taking into consideration the entire material available on record, this Court is of the view that the Appellate Court has not committed any error while exercising its jurisdiction vested in it. There is no error in the impugned Order dated 11.10.2021 passed by the Appellate Court. The Revision Application being devoid of merits and is accordingly dismissed.

(A.S. GADKARI, J.)