

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

**CIVIL APPLICATION NO. 255 OF 2016
IN
FIRST APPEAL (STAMP) NO. 27673 OF 2015**

Ms. Jadawatidevi @ Sumitradevi Jagatpal Singh
and Anr. ... Applicants

Vs.

Mrs. Josephine D'souza & Anr. ... Respondents

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Mr. T. J. Mendon i/b/ Ms. Jyoti Bajpai Pandey for the Applicant.
Mr. Nitesh V. Bhutekar for the Respondent No.2.

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CORAM: MADHAV J. JAMDAR, J.

DATE : 18th SEPTEMBER, 2021.

P. C. :-

1. Heard Mr. T. S. Mendon, learned counsel appearing for the applicants and Mr. Nitesh Bhutekar, learned counsel appearing for the respondent No.2.

2. Although respondent No.1 has been served, none appears for the respondent No.1.

3. This Civil Application is taken out for condonation of delay of about 1 year and 227 days. The impugned judgment and award is dated 29th October, 2013. Thereafter, on 19th December, 2013 the applicants filed M.A. No. 976 of 2013 seeking review of award dated 29th October, 2013 and the same was dismissed by order dated 7th March, 2015. Thereafter, the applicants filed Writ Petition No. 4997

of 2015 impugning order passed by M.A.C.T., Mumbai. This Court by order dated 24th August, 2015 passed in Writ Petition No. 4997 of 2015 granted liberty to the applicants to adopt appropriate remedy and thereafter on 1st October, 2015 the present First Appeal is filed.

4. Mr. Mendon, learned counsel appearing for the applicants submitted that the delay caused is not malafide as the applicants were pursuing the review application and thereafter, filed Writ Petition.

5. Mr. Bhutekar, learned counsel appearing for the respondent No.2 strongly opposed this application. He contended that the Writ Petition was not maintainable and therefore, there is willful delay in filing the present First Appeal.

6. The factual position on record show that the impugned award is dated 29th October, 2013. The applicants immediately filed review application on 19th December, 2013 after receiving the certified copy and said review application was dismissed on 7th March, 2015. Thereafter, the Writ Petition was filed and in the Writ Petition liberty was granted to adopt appropriate remedy and thereafter immediately present First Appeal is filed.

7. In the Civil Application it is mentioned that the applicant No.1 is housewife and applicant No.2 is handicap and sick person and they have no source of income. It is stated that the review application and Writ Petition were filed bonafidely as per the legal advice.

8. In the facts and circumstances of this case, delay is satisfactorily explained. Thus, Civil Application is allowed in terms of prayer clause (A).

9. The Civil Application is disposed of accordingly.

(MADHAV J. JAMDAR, J.)