

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION No. 2845 OF 2015
IN
FIRST APPEAL (ST) No. 29186 OF 2014

Naidu Kumar Bangaraswamy ...Applicant
Vs.
The Municipal Corporation of
Greater Mumbai and Anr. ...Respondents

None for the Applicant
Smt. Shilpa Redkar for Respondents

CORAM : MADHAV J. JAMDAR, JJ.

DATE : SEPTEMBER 18, 2021

PC. :

1. None appears for the Applicant. Ms. Shilpa Redkar appears for Respondents.

2. This civil application is taken out for condonation of delay and in the application delay is mentioned as of 62 days.

3. The impugned judgment and decree is dated 22nd July, 2014 and the appeal is filed on or about 14th September, 2014. Thus it is clear that the delay, if any, is even less than 30 days. The reason given in the application for delay condonation is that due to sickness of mother of the Applicant's Advocate, he was not available. It is stated that the Advocate's mother was 85 years' old and at native place. She was seriously ill and hospitalized and, therefore, Appeal could not be filed in stipulated time

4. Smt. Shilpa Redkar, learned Advocate appearing for the Respondents strongly opposes the delay condonation application. She submitted that the delay is not sufficiently explained. She further submitted that the Long Cause Suit No. 1014 of 2007 filed by the Applicant in the Bombay City Civil Court, Bombay, challenges notices dated 25th February, 2006 and 9th March, 2007 issued under Section 351 of the M.M.C. Act and the said suit was dismissed on 22nd July, 2014. She submitted that most probably the suit structures might have been demolished as there is no stay in this First Appeal.

5. However, as observed earlier, the delay is of less than 30 days and adequate reasons are given for the same. It is settled legal position that while considering delay condonation application merits of the case are not to be considered.

6. For the reasons set out in the civil application, Civil Application No. 2845 of 2015 is allowed in terms of prayer clause (a).

7. No order as to costs.

(MADHAV J. JAMDAR, J.)