

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

**CIVIL APPLICATION NO. 788 OF 2017
IN
FIRST APPEAL (STAMP) NO. 29585 OF 2016**

Municipal Corporation of Greater Mumbai ...Applicant

Versus

Mr. Parshwanath Narendra Deorukhakar ...Respondent

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Ms Shilpa Redkar for the Applicant-MCGM.
None for the Respondent.

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CORAM : MADHAV J. JAMDAR, J.

DATE : 22nd DECEMBER, 2021

P.C.:

Heard Ms Shilpa Redkar for the Applicant. None appears for the Respondent although served.

2. Ms Shilpa Redkar, learned counsel states that the affidavit of service is filed. She submits that the advocate for MCGM, who has conducted the matter was overburdened with the constant flow of the cases and has to attend the Court alternate day apart from drafting the written statement, affidavits in various matters including the urgent matters. The concerned advocate, who drafted the appeal was transferred from the concerned ward to the head office. She submitted that as the proceedings were given for typing outside the office due to shortage of Stenographers and the bills

remained to be sanctioned by the Higher Authority, hence, time was required. She submitted that the concerned advocate after getting instructions regarding the said matter, personally attended the ward in May 2016 and got the bills sanctioned and thereafter the proceedings were forwarded to the Appellate Side of Legal Department. She submitted that as there were change of advocates and concerned staff, hence, there is a delay which is not intentional or deliberate. In these circumstances, the delay caused is of 2 years and 55 days in filing the appeal.

3. Although there is substantial delay, the same has been explained in Paragraph Nos. 4 and 5 of the present application. Although the Respondent has been served no reply has been filed. Though the civil application is for delay condonation neither the Respondent has been represented in this Court and none appears at the hearing of this civil application today. Thus, the contentions raised in civil application have remained uncontroverted.

4. In the facts and circumstances of this case, the delay caused in filing the first appeal is condoned. Civil Application is allowed in terms of prayer Clause (a).

5. Civil application stands disposed of accordingly.

(MADHAV J. JAMDAR, J.)