

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

Civil Application (CAC) No. 4 of 2020 in Civil Revision Application Stamp No. 979 of 2020

Sawan Nandkumar Bhatewara Vs. International Asset and Others
WITH

Civil Revision Application No. 92 of 2019

Praharsh Investments Pvt. Ltd. Vs. International Asset and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

CRA St. No. 979 of 2020
Mr. S.V. Purohit, Advocate for the applicant
Mr. Anjan De, Advocate for the respondent No.2
CRA No. 92 of 2019
Mr. R.M. Bhangde, Advocate for the applicant
Mr. Anjan De, Advocate for the respondent No.2

CORAM : MANISH PITALE, J.

DATED : JUNE 30, 2021

Hearing was conducted through video conferencing and the learned counsel agreed that the audio and visual quality was proper.

Civil Application (CAC) No. 4 of 2020

This application is filed by the revision applicant seeking condonation of delay of 170 days in filing the revision application. Although grounds for condonation of delay were stated in the application, supporting documents were not placed on record, as a result of which the applicant was expected to place on record documents in support of the grounds for seeking condonation of delay.

2. The learned counsel for the applicant submits that along with a rejoinder affidavit filed before this Court in the present application, supporting documents are placed on record. It is pointed out that the applicant has been suffering from cancer and that medical papers pertaining to treatment undertaken at Bombay Hospital are placed on record. Perusal of the same indeed shows that there is substance in the contention raised on behalf of the applicant.

3. Apart from this, it is submitted that wife of the counsel appearing for the applicant before the Court below had suffered from an accident, which also contributed towards delay in approaching this court.

4. Despite the fact that the respondent No.2 has opposed the present application, this Court is of the opinion that sufficient ground is made out on behalf of the applicant for condonation of delay.

5. In view of the above, the application is allowed and delay is condoned.

C.R.A. ST. No. 979 of 2020 & C.R.A. No.92 of 2019

Both these Revision Applications challenge the same order passed by the Court below, whereby an application for rejection of plaint under Order 7 Rule 11-(d) of the Code of Civil Procedure was rejected.

2. The learned counsel appearing for the respondent No.2 submitted that in the present case it would be necessary to serve the respondent No.3, who has remained unserved in both these Revision Applications.

3. Perusal of the record shows that the said respondent is the original defendant No.2 and the respondent No.2 being the original plaintiff has itself not served the said party in the suit before the Court below. In any case, the said party is a defendant and present Revision Applications concern contention raised on behalf of the revision applicants as regards the plaint being liable to be rejected under Order 7 Rule 11-(d) of the Code of Civil Procedure.

4. In these circumstances, this Court is of the opinion that service of notice on respondent No.3 in both these Applications is not necessary and, therefore, it is dispensed with.

5. List these Revision Applications for final disposal in the week commencing **12th July, 2021**.

JUDGE