

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
CIVIL APPLICATION NO. 8074 OF 2021
IN SAST/12581/2021**

KAMALABAI NANDLAL RATHI
VERSUS
M/S .G. INDUSTRIES DAL MILL

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Advocate for Applicants : Mr. Amit S. Savale
Advocate for Respondent Nos. 1, 2 & 4 :
Ms. PS. Gondhalekar h/f. Mr. Devang R. Deshmukh

**CORAM : RAJESH S. PATIL, J.
DATE : NOVEMBER 29, 2022.**

P.C.:-

1. This application has been filed for condonation of delay of 841 days caused in filing the second appeal. The office has, however, made a remark that the delay is of 1205 days. This application has been during the Covid pandemic. Therefore, office ought to have taken into consideration the orders passed by the Supreme Court in Suo-motu Civil Writ Petition No. 3 of 2020.

2. The applicant has stated in the civil application, more particularly, in para. Nos. 4,5 and 6 the reasons for condoning the delay. The applicant is a senior citizen, aged about 85 years. The applicant is suffering from Parkinson disease and for that reason also she is required to visit the Hospital and some time she is even hospitalized. The medical certificates issued by the Doctor which are annexed to the civil application show that the applicant was admitted in hospital on two occasions. It is also stated in the civil application that the husband of the applicant died way back in the year 2010, so also, son of the applicant has died at a young age. The applicant is taken care of by an adopted son.

3. The learned advocate for the respondent states that she has filed reply to the civil application opposing it. In the said reply, Para Nos. 1 to 3 of the civil application are not denied. There is no comment as far as contents of para. Nos. 5 and 6 of the civil application are concerned. Hence, it is presumed that there is no denial of the contents of para Nos. 5 and 6. However, advocate for the respondent is today disputing the contents of para Nos. 4,5 and 6 of the civil application. The learned advocate for respondent relied upon the observations of the Supreme Court, in the matter of *Esha Bhattacharjee Versus Managing Committee of Raghunathpur Nafar Academy and others. (2013) 12 SCC 649.*

To counter the submissions made by the advocate for the respondent, the learned advocate for the applicant has relied upon the judgment in the matter of *Ramlal, Motilal and Chotelal vs. Rewa Coalfields Ltd. 1962 AIR 361, and Bhivchandra More Vs. Balu Gangaram More – (2019)6 SCC 387.*

4. In view of the above fact situation, taking into consideration the averments made in the civil application and the judgments of the Supreme Court reported in Ramlal (supra) and Bhivchandra More (supra), the present civil application is allowed in terms of prayer clause (B). The advocate for respondent at this stage, prays for some cost to be imposed on the applicants, who have not been diligent enough. Hence, cost of Rs. 5,000/- is imposed on the applicants to be paid to the respondent within two weeks.

5. Civil application is accordingly disposed of.

grt/-

[RAJESH S. PATIL]
JUDGE.