

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.14050 OF 2022
IN
ARBITRATION APPEAL (STAMP) NO. 24242 OF 2022

Mr. Chandrashekhar S. Nagral Applicant

Versus

Abhikalp Infrastructure Pvt. Ltd.
Through its Managing Director
Mr. Jambeshwar R. Patnaik Respondent

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Mr. Vinod B. Jadhav, Advocate for the Applicant
Mr. Yuvraj S. Choudhari, Advocate for the Respondent

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 17th NOVEMBER, 2022

ORDER :

1. Heard.
2. By this application, the applicant seeks condonation of delay of 80 days in filing the appeal under Section 37 of the Arbitration and Conciliation Act, 2015.
3. The applicant has challenged the order passed by the learned Civil Judge, Senior Division, Ahmednagar, in Special Civil Suit No.127 of 2020, thereby rejecting the request of the applicant to refer the dispute for arbitration.

4. In the application, the applicant has stated that after getting knowledge of the impugned order, the applicant was to collect necessary documents, however, due to business exigencies, the applicant could not immediately collect the documents. The applicant had initially advised to file Civil Revision Application for which limitation is 90 days. Thereafter, it was realised that, the applicant has to prefer appeal under Section 37 of the Arbitration and Conciliation Act. Hence, delay is caused.

4. The learned advocate for the respondent vehemently opposed the prayer of the applicant contending that the grounds on which condonation of delay is sought are not sufficient to condone the delay. The negligence on the part of the applicant is writ large on the face of record. By relying on decision in case of *Government of Maharashtra (Water Resources Department) represented by Executive Engineer Vs. Borse Brothers Engineers and Contractors Private Limited, (2021) 6 SCC 460*, he submits that even if sufficient ground is shown, delay is not liable to be condoned. The trial Court has rightly rejected the request of the applicant.

5. If the delay is not condoned, applicant would be rendered remediless and the applicant would suffer irreparable loss. The appeal of the applicant is therefore required to be considered on merits. In that view of the matter and in view of the settled legal position that delay should be liberally condoned, the application of the applicant deserves to be allowed.

6. In the facts of the present case, the ruling relied upon by the respondent cannot be said to be applicable.

7. With the aforesaid reasons, application is allowed in terms of prayer clause (A) subject to the applicant paying costs of Rs.25,000/- to the respondent within a period of one week from today.

8. On payment of costs and production of the receipt of the same, appeal be registered.

[NITIN B. SURYAWANSHI]
JUDGE

S.P Rane