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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL WRIT PETITION NO. 201 OF 2022

SULABHA JAYWANT MUNAWALI

....PETITIONER

V/s.

APPA NARAYAN MANE AND ANR

.....RESPONDENTS

Mr. Ashok B. Tajane Advocate for the Petitioner

Mr. Ashish S. Gaikwad i/b Mr. Ujwal R. Agandsurve for Respondent
nos. 1 & 2

CORAM : NITIN W. SAMBRE, J.

DATE: MARCH 9, 2022.

P.C.:

1) Heard Mr. Tajane, learned counsel appearing for Decree Holder. According to him, delay caused in preferring the Appeal against the Decree for injunction and possession is not bonafide. As such, Court below is in error. According to him, conduct of the Respondent-Judgment Debtor depicts that delay is intentional and malafide. He would further claim that reliance placed by the Court below while ordering condonation of delay on the Supreme Court Judgment is wholly misplaced as limitation for filing Appeal has expired much

prior to pandemic, hence shelter of Order of the Supreme Court is not available.

2) Order impugned is supported by the counsel for Respondent.

3) Considered submissions.

4) It appears from the submissions made by the counsel for the Petitioner that reasons which are cited by the Respondent in support of prayer for condonation of delay does not depict that delay is reasonably explained by the Respondent.

5) However, this Court is required to be sensitive to the fact that Court below has exercised discretion in favour of Respondent thereby putting the Respondent to a condition of cost.

6) In this background, in my opinion, cost awarded is too meager. In that view of the matter, cost is enhanced to Rs. 15,000/-. Amount of Rs. 2500/- if so paid be adjusted in the same. Let the balance amount be deposited within period of 6 weeks from today, failing which order of condoning the delay shall stand recalled without further reference to the Court and the Civil Misc. Application shall be deemed to be rejected. If cost so deposited, Petitioner shall be at liberty to withdraw the same.

- 7) Mr. Tajne, learned counsel for the Petitioner informs that he shall cooperate in expeditious disposal of the Appeal.
- 8) As such, Appellate Court shall make every endeavour to dispose of the Appeal within period of 6 months from today.
- 9) Petition stands disposed of in the above terms.

[NITIN W. SAMBRE, J.]