

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

Civil Application No.1565 of 2018

In

First Appeal (st)No. 2813 of 2018

M/s. Bharati Jewellers & anr. ... Applicants

V/s.

Mr. Praful Premji Nandu ... Respondents

Ms. Shweta M. Jain i/b. S.M. Jain Associates for the applicant.

Mr. Nishant Shah i/b. Piyush Shah for respondents.

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CORAM : SHRIKANT D. KULKARNI,J.

20th July 2022

P.C.

Heard Ms. Shweta Jain i/b. S.M.Jain Associates for the Applicants and Mr. Nishant Shah i/b. Mr. Piyush Shah, learned Counsel for the Respondents.

2. There is delay of 70 days in preferring the appeal though office note shows that there is delay of 85 days. Learned Counsel for the Applicants submits that due to financial difficulty, the applicants could

not arrange for the funds and ultimately resulted in delay. The delay was not intentional. She, therefore, urged to condone the delay.

3. Mr. Nishant Shah, learned Counsel for the Respondents has opposed to condone the delay. He submitted that reason assigned by the Applicants is not bonafide. In another identical matter, the applicants have challenged the order passed by this Court by way of SLP before the Apex Court which indicates that applicant has sufficient funds. Whatever reason assigned by the applicants is concocted. He, therefore, urged to dismiss the application.

4. The Applicants are challenging the money decree passed by the City Civil Court. Having regard to the nature of dispute, one opportunity needs to be granted to the applicants. If application for condonation of delay is dismissed, it may cause injustice to the applicants. By considering all these aspects, I proceed to pass the following order.

ORDER

- i) The Application is hereby allowed in terms of prayer clause 4(a).

- ii) The Registry is directed to make scrutiny of matter as per procedure and thereafter it be numbered and place it before appropriate Court.
- iii) Civil Application is accordingly disposed of.

(SHRIKANT D. KULKARNI, J)

L.S. Panjwani, P.S.