

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.2 OF 2022
IN
REJECTED CASE NO.1219 OF 2014**

Ms.Neelam Ashok Seth Thru the .. Applicant
Power of Attorney Holder Ashok
Roshanlal Sethi

Versus

Shri Pradhabansubramaniam Pillai and .. Respondents
ors

...

Mr. Rahul D. Motkari for the applicant.
Mr.R.D. Soni with V.R. Kasle, J.A. Shankala i/b Ram & Co. for
respondent nos.1 and 2.

**CORAM: BHARATI DANGRE, J.
DATED : 7th APRIL, 2022**

P.C:-

1 By the present application, the applicant seeks condonation of delay of 1715 days in filing the application seeking restoration of the Second Appeal and request that it should be heard on merits.

2 Heard learned counsel for the applicant and learned counsel for respondent nos.1 and 2.

With the assistance of the learned counsel, I have perused the application along with the accompanying documents. The Appeal was refused registration on account of non-removal of the office objections in the wake of the order passed by the Registrar Judicial-II on 30/4/2014. For setting aside the said order, the present application is moved on 4/5/2019.

3 Perusal of the application would reveal sketchy reasons being cited from paragraph nos.9 to 14.

On perusal, the reasons which can be seen is that the Appeal was dismissed for non-removal of office objections and thereafter, Civil Application No.651/2017 came to be filed, seeking restoration of the Appeal and this application was filed on 10/4/2017. The application was listed before the Court on 28/4/2017 and 28/6/2017 and further on 1/7/2017, when it came to be dismissed in default.

Thereafter again, the application came to be preferred and sketchily, the steps taken by the party to contact the Advocate are stated and that is how the delay of 1715 days in filing the Appeal is sought to be explained.

4 It is trite position of law that if the delay is found to be satisfactorily explained and bonafide, it deserve to be condoned. On the other hand, if a party is trying to take advantage of the leniency of the Court, the said conduct of the party shall be deprecated. True it is, that the party shall not be

made to suffer because of Advocate's mistake, but at the same time, the client is also expected to adopt due diligence in exhausting the remedy available to him and he cannot adopt a lackadaisical approach.

The listing of the grounds in the said application, only reflect the casual approach of the counsel as well as of the party. On one occasion, the Court had shown indulgence and had permitted the application to be filed, but even this application came to be dismissed in default.

The reasons stated in the application, do not exhibit any bonafides and it can only be inferred that the applicant is trying to take advantage of the situation.

5 Further, learned counsel Mr.Soni makes a categorical statement that the decree has been executed and this was so recorded by this Court on 28/4/2017.

In the wake of above, application do not deserve any consideration and is dismissed.

(SMT. BHARATI DANGRE, J.)