

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

CIVIL APPLICATION NO. 69 OF 2022
IN
FIRST APPEAL (ST) NO. 15176 OF 2019

Urmila & Co. Pvt. Ltd. ..Applicant.

v/s.
The West of England Ship Owners Mutual
Insurance Association (Luxembourg) thr.
Their Managers. ..Respondents

WITH
CIVIL APPLICATION NO. 71 OF 2022
IN
FIRST APPEAL (ST) NO. 16151 OF 2019

Ardeshir B. Cursetjee & Sons Ltd. ..Applicant.

v/s.
The West of England Ship Owners Mutual
Insurance Association (Luxembourg) thr.
Their Managers. ..Respondents

Mr. Gautam Ankhad, Mr. Naresh Ratnani i/b. Ashwin Ankhad &
Associates for the Applicant.
Mr. David Gomes i/b. Suraj Dessai for the Respondent.

**CORAM : ANUJA PRABHUDESSAI, J.
DATED : 25th JULY, 2022.**

P.C.

1. Leave granted to the Applicant to amend the prayer clause, as well as the relevant averments in the Application to correct the number of days of delay from 40 days to 68 days.

2. By this application, the Applicant has sought to condone the delay

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of 68 days in filing the appeal.

3. The application is opposed on the ground that the delay is not bonafide and that the Applicant has been negligent in as much as he had failed to remove the office objections, which has resulted into rejection of the appeal. He submits that the appeal was ordered to be restored and registered by order dated 3.3.2020, subject to removal of the office objections.

4. I have perused the records and considered the submissions advanced by the learned Counsel for the respective parties. Office noting indicates that pursuant to the order dated 3.3.2020, the Applicant has already removed all the office objections and has deposited the cost.

5. The impugned order was passed on 16.02.2019. Certified copy was applied for on 18.02.2019 and the same was ready for delivery on 26.02.2019. The appeal has been filed on 03.06.2019 i.e. after 107 days from the day of passing of the impugned order. The Applicant has stated that the appeal ought to have been filed within 30 days from the date of the order. The Applicant has stated that he was under the genuine and bonafide belief that the limitation for filing the appeal was 90 days as per Article 116 of the Limitation Act.

6. It is well settled that liberal and not pedente lite approach is to be taken in the matter of condonation of delay. In the instant case the delay appears to be bonafide. Hence the delay is condoned.

7. Appeal is ordered to be restored. Application stands disposed of.

(ANUJA PRABHUDESSAI, J.)