

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

***INTERIM APPLICATION NO.791 OF 2022
IN
FIRST APPEAL NO.890 OF 2007***

The Municipal Corporation of
Greater Mumbai & Anr.

...Applicants

IN THE MATTER BETWEEN

The Municipal Corporation of
Greater Mumbai & Anr.

...Appellant

Vs

The Indian Hotels Co. Ltd.

... Respondents

...

Mr. Santosh Parad for Applicant/Appellant-MCGM.

Mr. Karl Tamboly with Mks. Shahean Moghul with Mr. Shah
i/by Mulla & Mulla and CBC for Respondents.

CORAM : SANDEEP K. SHINDE J.

DATE : FEBRUARY 21, 2022.

P.C. :

Heard.

2 By judgment and order dated 17th November, 2005 passed
in Municipal Appeal No.2 of 2003, First Appeal preferred by the
Municipal Corporation of Greater Bombay, was admitted by this

Court on 8th March, 2007 and appellants were directed to file private paper-book, along with Decree Form within a period of one year. Private paper-book was not filed, which resulted into dismissal of the appeal. Whereafter, Civil Application No.917 of 2009 was moved seeking restoration of the appeal with the prayer to condone the delay occurred in preferring application. Vide order dated 24th February, 2009, application was allowed and the appeal was restored to file subject to cost of Rs.1,000/-, with a rider that appellants shall file paper-book within a period of two weeks. After restoration, appeal was listed before Registrar (Judl.) on 17th July, 2014. Time was sought for payment of bhatta charges and was extended from time to time, at the behest of appellants. Finally for non-payment of Bhatta charges on, 20th April, 2015, appeal was dismissed. Thus, Appeal stood dismissed for ;

- (i) Non filing of private paper-book as directed by this Court on 24th February, 2009 in Civil Application No.917 of 2009 and
- (ii) Non-payment of bhatta charges.

3 The Corporation moved this Civil Application nearly after 5 years and 6 months and sought condonation of delay. I have perused the application. It is drafted in the most casual manner. It does not narrate the fact that once, the appeal was dismissed and restored on 24th February, 2009. The only statement, application contains, is that, bhatta charges could not be paid through oversight and nothing more. There is no whisper in the application as to whether paper-book is kept ready or not. To put it differently, application does not disclose “*Sufficient Cause*” for condoning the delay of 5 years plus.

4 For all that reasons, application is dismissed.

(SANDEEP K. SHINDE, J.)