

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

**CIVIL APPLICATION NO.3465 OF 2019
IN
FIRST APPEAL ST. NO.18909 OF 2019**

Bholanath S. Gowsami & Ors. ... Applicants
V/s.
Shivnath Gowsami
(Decd.) & Ors. ... Respondents

Mr.Ashutosh Tripathi i/b Legal Point for the Applicants.
Ms.Manisha Jaiswar i/b R R Sharma for Respondent Nos.1 to 4.

CORAM : MADHAV J. JAMDAR, J.

DATE : 26TH FEBRUARY 2022

P.C:-

1. Heard Mr.Ashutosh Tripathi, learned Advocate appearing for the Applicants and Mr.Manisha Jaiswar, learned Advocate appearing for Respondent Nos.1 to 4.
2. Civil Application is for condonation of delay of 129 days in filing the First Appeal. In the First Appeal, challenge is to the judgment and decree dated 5/01/2019 passed by the Principal Judge, City Civil Court at Greater Mumbai in S.C. Suit No.7209 of 1997.
3. Mr.Triapthi, learned Advocate submitted that there were certain difficulties including ill health of the relative of the Applicants and, therefore, the Appeal could not be filed in time.
4. Ms.Manisha Jaiswar, learned Advocate appearing for Respondent Nos.1 to 4, however, strongly opposed the Civil Application. She submitted that the reasons given are not sufficient and no details are set out in the Civil Application and, therefore, Civil Application be dismissed. She submitted that in case Court is inclined to condone delay then the Respondent Nos.1

to 4 are entitled for cost.

5. Perusal of the Civil Application shows that the relative of the Applicants - Mr.Rohit Goswami was not well and, therefore, the Applicants were required to go to native place. It is also stated in the Application that financial condition of the Applicants was very bad and, therefore, time was required for arranging funds.

6. This Court by order dated 15th October 2019 issued notice before admission to the Respondents. Notice is duly served on the Respondent Nos.1 to 7 i.e. all the Respondents, however, till date reply is not filed. Therefore, the contentions raised in the Civil Application have remain uncontroverted. In view of this Civil Application is allowed in terms of prayer clause (a) subject to Applicants paying the cost of Rs.5,000/- to the Respondent Nos.1 to 4 within two weeks from today.

7. Civil Application is disposed of.

[MADHAV J. JAMDAR, J.]