

Sonali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 821 OF 2017
IN
FIRST APPEAL (ST) NO. 29597 OF 2016

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Municipal Corporation of Greater Mumbai ...Applicant
Versus
Mr. Mohanlal Dhuria ...Respondent

Mr. Santosh Parad for the Applicant.

CORAM Madhav J. Jamdar, J.
DATED: 21st April 2022

PC:-

1. Heard Mr. Santosh Parad, learned counsel appearing for the Applicant-Municipal Corporation of Greater Mumbai.

2. By this Civil Application the Applicant is seeking condonation of delay of 2 years and 55 days in filing the First Appeal. The First Appeal is filed challenging the judgment and decree dated 11th June, 2014 passed by the learned Judge,

Civil Civil Court, Dindoshi, Mumbai in L.C. Suit No.1161 of 2009.

3. It is stated in the application that the Applicant applied for the certified copy of the impugned judgment dated 11th June, 2014 on 10th July, 2014, the same was ready on 23rd August, 2014 and the same was collected on 2nd September, 2014. It is further stated that certified copy of the decree was applied on 10th July, 2014 and same was ready on 30th October, 2014 and collected on 12th November, 2014. The present Appeal has been filed on 29th August, 2016. It is stated that the Advocate who was representing the MCGM in the Trial Court was instructed to prefer the Appeal. The said concerned Advocate was overburdened with the constant flow of the cases and has to attend in the Court alternate day apart from drafting written statement/affidavits in the matters including the urgent matters and giving opinions in the matter. It is further stated that concerned Advocate drafted the Appeal. However, he was transferred from the concerned

ward to the Head Office. The proceedings were given for typing outside the office due to shortage of stenographers and as the bills remained to be sanctioned by higher authority, further steps could not be taken. Thereafter the concerned Advocate personally attended the ward in May-2016 and got the bills sanctioned and thereafter proceedings were forwarded to legal department of MCGM (Appellate Side). It is further stated that there were transfer of Advocates and concerned staff and therefore, delay has occurred. It is stated that the delay is not intentional.

4. Although the sole Respondent has been served as per the office noting dated 16th July 2018, none appears for the Respondent. This Court on 18th September, 2021 after noticing the paragraph Nos.4, 5 and 6 of the application, wherein the delay is explained for giving opportunity to the sole Respondent as a last chance adjourned the matter. Even today also none appears for the Respondent. The contentions raised in the Civil Application have remained unchallenged.

5. In the facts and circumstances of this case, the Civil Application is allowed in terms of prayer clause (a).
6. The Civil Application is disposed of in above terms.

(Madhav J. Jamdar, J.)