

Pallavi

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

**INTERIM APPLICATION NO.20185 OF 2022
IN
SECOND APPEAL (ST.) NO.28293 OF 2022**

The General Manager Bharat
Sanchar Nigam Ltd. Thane ... Appellant
Versus
M/s. Vishwakarma Paradise Phase – 1 CHS. Ltd.
Thr. Its Secretary Palghar ... Respondent

**WITH
INTERIM APPLICATION NO.20187 OF 2022
IN
SECOND APPEAL (ST.) NO.28293 OF 2022**

The General Manager Bharat
Sanchar Nigam Ltd. Thane ... Appellant
Versus
M/s. Vishwakarma Paradise Phase – 1 CHS. Ltd.
Thr. Its Secretary Palghar ... Respondent

Ms. Neeta Masurkar, for the Appellant/Applicant.
Mr. Robert D'Abreo I/b. IRA Law Associates LLP for Respondent No.1.

**CORAM: MADHAV J. JAMDAR, J.
DATE : 8th DECEMBER, 2022**

P.C.:

1. Heard Ms.Masurkar, learned counsel appearing for the Applicant and Mr. Robert D'Abreo, learned counsel appearing for the Respondent No.1. Respondent No.2 has not appeared before the learned trial Court as well as before the learned Appellate Court. Ms.Masurkar states that Respondent No.2 is already served. The

impugned judgment and decree of the learned Appellate Court is dated 21st August 2019.

2. The present appeal is filed on 1st November 2022. Although the limitation for filing the second Appeal expired on or before 20th November 2019, paragraphs 4 and 5 of the Interim Application states that in 2019 the Government of India declared Voluntary Retirement Scheme 2019 (VRS 2019) in BSNL. The Civil Application states that officers looking after the legal matters also relinquished the office on 31st January 2020 and therefore, the charge was handed over to the present officers who were unaware of the position of the present matter. In the meanwhile, from March 2020 till February 2022, the work was affected due to Covid 2019 pandemic.

3. In any case, it is to be seen that although there is sufficient explanation upto February 2022 still there is delay even thereafter. However, as number of employees took voluntary retirement and therefore, the present officers were to deal with many matters, a case is made out for condonation of delay.

4. Mr. Robert D'Abreo, learned counsel appearing for the Respondents submitted that the Applicants have not paid any amount as per the decree. He submitted that the learned trial Court by judgment and decree dated 12th February 2016 directed payment of rent at the rate of Rs.25,000/- p.m. from October 2007 till March

2011 along with interest @ 15% p.a. till realisation of this amount and therefore, the Society is suffering hardship.

5. In view of this, delay in filing the appeal is condoned subject to payment of cost of Rs. 25,000/- (Twenty Five Thousand Only) within a period of four weeks from today. Interim application is disposed of.

6. Place the Second Appeal along with Interim Application No.20187 of 2022 on 9th January 2023 for 'Admission'.

(MADHAV J. JAMDAR, J.)