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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

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Date: 2022.12.23
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INTERIM APPLICATION NO.4901 NO.2022

IN

NOTICE OF MOTION NO.11 OF 2016

IN

WRIT PETITION (LODGING) NO.1453 OF 2015

Bombay Dyeing & Mfg. Co. Ltd.

...Applicant

IN THE MATTER BETWEEN :

Bombay Dyeing & Mfg. Co. Ltd.

...Petitioner

V/s.

The Board of Trustees for the Port of Bombay & Anr. ...Respondents

Mr.Rohan Kelkar with Ms.Varun Satiya and Mr.Alhan Kayser i/b
M/s.Jadeja & Satiya for the Applicant/ Petitioner.

Ms.Sneha B. Pandey i/b M/s.Motiwalla & Co. for the Respondents.

CORAM : R.D. DHANUKA &

M.M. SATHAYE , JJ.

DATE : 23RD DECEMBER, 2022.

P.C. :-

1. The applicant / petitioner has filed this application for condonation of delay and praying to recall the order dated 28th January, 2020 by which Notice of Motion No.11 of 2016 was dismissed for non-prosecution.

2. Heard learned counsel for the applicant / petition. Learned counsel for the applicant has invited our attention to the averments

made in paragraph 4 to 18 of the interim application. We have considered the averments therein explaining how and in what circumstances the notice of motion was dismissed for non removal of office objections and why delay was caused in applying for restoration. Majority part of the delay from March 2020 to end of February 2022 is already excluded by orders of Hon'ble Supreme Court of India, owing to covid pandemic. The explanation for applying late after pandemic time, is explained in para 13 to 18 of the application. Learned counsel for the Respondents vehemently opposed the grant of prayers, however Respondents can be compensated by awarding costs, in the facts of the case. We are satisfied that the reasons given in the application constitute sufficient cause for both delay condonation and restoration of notice of motion.

3. Hence this interim application is allowed in terms of prayer clauses (a) and (b) subject to the payment of cost of Rs.10,000/- by the Applicant to the Respondents, within 2 weeks from today. It is clarified that if cost is not paid, as directed above, this application will be dismissed without further reference to the Court.

(M.M. SATHAYE , J.)

(R.D. DHANUKA, J.)