

ODC-1

APOT/23/2023

With

CS/118/2020

IA No.GA/1/2023, GA/2/2023

IN THE HIGH COURT AT CALCUTTA

Civil Appellate Jurisdiction

ORIGINAL SIDE

SATYENDRA JHUNJHUNWALA

VERSUS

M/S. SLS BEARING S PTE LIMITED

BEFORE:

The Hon'ble JUSTICE SOUMEN SEN

AND

The Hon'ble JUSTICE UDAY KUMAR

Date : 19th June, 2023

Appearance:

Ms. Sutapa Sanyal, Adv.

Mr. Diptomoy Talukder, Adv.

...for the appellant

Mr. Anujit Mookherji, Adv.

..for respondent

The Court: Sufficient causes being shown for not being able to present the memorandum of appeal within limitation, the delay of 61 days is condoned.

Since the affidavit-in-opposition has not been filed in the application for condonation of delay, the allegations contained therein are deemed not have been admitted.

The appeal may be registered and the application for condonation of delay is disposed of.

By consent of the parties, the appeal and the application are taken up together and disposed of by this common judgment.

The appellant is aggrieved by the order passed by the learned Single Judge in dismissing the application filed for rejection of the plaint. The ground for rejection seems to be that the plaintiff did not take any steps for extension of time to lodge the writ of summons and by reason of such delay, a valuable right has accrued in favour of the defendant. The Court has the power to extend the time to lodge writ of summons in appropriate cases being satisfied with the reason for failure to lodge the writ of summons at the time of institution of the suit. The plaintiff having been able to show sufficient reasons for not being able to lodge the writ of summons within the period of 14 days and it was lodged after 81 days disclosing the reasons for the delay and that no prejudice is caused to the defendant in this regard, we are of the view that the learned Trial Judge was justified in dismissing of the application for rejection of the plaint.

The appeal and the application accordingly stand dismissed.

(SOUMEN SEN, J.)

(UDAY KUMAR, J.)