

Niti

IN THE HIGH COURT OF BOMBAY AT GOA

MISC. CIVIL APPLICATION NO.71 OF 2021

IN

STAMP NUMBER MAIN NO.3940 OF 2019

STATE OF GOA, THR. ITS
EXECUTIVE ENGINEER,
SHRIKANT PARANJAPE

...APPLICANT

Versus

N.V. KHAROTE, ENGINEERS
AND CONTRACTOR, REP.
THR. ITS M.D. RATNAKAR
N. KHAROTE

....RESPONDENT

Ms Amira Razaq, Additional Government Advocate for the
applicant.

Mr Joaquim Godinho, Advocate for the Respondent.

CORAM: M. S. SONAK, J.

DATE : 10th NOVEMBER 2023

P.C. :

1. Heard Ms Amira Razaq, learned Additional Government Advocate for the applicant and Mr Joaquim Godinho for the respondent.

2. This is an application seeking condonation of delay of 225 days in instituting the First Appeal against the judgment and decree by which the State's suit was dismissed.

3. The application explains how the Government Advocate before the Trial Court requested the learned Advocate General to give his opinion about filing of the appeal. After that, the movement of files is explained.

4. The matter took some time because no proper opinion was found on record. The learned Advocate General's office also required further documents to decide whether this was a fit case for instituting an appeal. After the final opinions were given, it was realised that there was some delay and further some time was spent in preparing the appeal memo and application for condonation of delay.

5. Mr Godinho submitted that no sufficient cause was made out and relied on *Postmaster General and Ors. V/s. Living Media India Limited and Anr.*¹ and *State of Madhya Pradesh and Ors. V/s. Bherula*².

6. In both the above cases, the Court found that no reasonable and acceptable explanation was offered for the delay. In *Postmaster General and Ors.* (supra), despite an opportunity to file a better affidavit, no explanation was offered. On that, there was a delay in obtaining a certified copy of the impugned judgment and order. It is in these circumstances the delay was not condoned. Directions were also issued

¹ (2012) 3 SCC 563

² (2020) 10 SCC 654

that inquiries should be made against the Officials responsible for the delay and costs should be recovered from them personally.

7. In the present case, the delay has been explained. The explanation is backed by an affidavit. The delay is also not inordinate. Accordingly, the case is made out to condone the delay, no doubt subject to payment of costs.

8. Accordingly, the delay is condoned subject to payment of costs of ₹10,000/-. The costs should be deposited in the Registry within three weeks without giving the usual excuses that Government processes always take time. If the costs are deposited within three weeks, this application shall stand allowed. If the costs are not deposited, then this application shall stand dismissed with costs of ₹10,000/-.

9. Once the costs are deposited, liberty is granted to the respondents to withdraw the same unconditionally.

10. Misc. Civil Application No.71/2021 stands disposed of.

M. S. SONAK, J.

NITI K
HALDANKAR

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