



Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO.15011 OF 2023
IN
FIRST APPEAL [STAMP] NO.22780 OF 2017**

Harshad B. Sonawala	]	Applicant
Vs.		
M/s. Nilay Consultancy and	]	
Investment Company and another	]	Respondents

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Mr. Bharat Gadhavi i/b Mr. Vikrant Khare, for Applicant.

Mr. S.C. Naidu a/w Mr. Sudeshkumar Naidu, Mr. T.R. Yadav, Mr. Abhishek Ingale a/w Mr. Pradeep Kumar i/b C.R. Naidu & Co., for Respondent Nos. 1 and 2.

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CORAM : PRITHVIRAJ K. CHAVAN, J.

DATE : 8th September, 2023.

P.C.

1. On 16th July, 2021, following order was passed by this Court
(Coram: Nitin W. Sambre, J.);

“1. Learned Counsel appearing for the Applicant submits that the Bank Guarantee of 50% decretal amount will be furnished in this Court within a period of four weeks from today. Since the statement is made in response to the Court’s query, the same is accepted.

2. Issue notice to the Respondents on the application for condonation of delay, so also on the appeal, returnable on 10th August, 2021. Service by alternate mode is permitted.

3. We expect the Respondent-Plaintiffs to address on the issue of limitation.

4. In view of the observations made by the Court below, there shall no coercive action against the appellant till the returnable date”.

2. Thereafter, on 30th August, 2022, a detailed order was passed by this Court (Coram: Gauri Godse, J.) Paragraph 8 of which is extracted below;

“8. For the purpose of compensating the Respondent for the delay that is caused, Applicant has shown willingness to pay costs of Rs.2 Lakhs which will be directly paid to Respondents. I find that apart from paying cost, it will be also required by the Applicant to deposit the entire decretal amount in this Court. Statement made by the Applicant before this Court and which is recorded in Order dated 16th July 2021 that he will furnish bank guarantee of 50% of decretal amount and the fact that Applicant has not complied with the statement made before this Court will warrant an additional condition on the Applicant that he shall deposit the entire decretal amount in this Court as a condition for condonation of delay. Hence, following order is passed.

(i) As stated by the learned Advocate for the Applicant on instructions, Applicant shall pay an amount of Rs.2 Lakhs towards cost directly to the

Respondents on/or before 30th September, 2022 and shall file compliance affidavit in this Court, within one week thereafter.

(ii) Entire decretal amount shall be deposited by the Applicant in this Court on or before 1st January, 2023 and compliance affidavit shall be filed in this Court, within one week thereafter.

(iii) Subject to compliance of clauses (i) and (ii) above, Civil Application No.193 of 2021 for condonation of delay is allowed in terms of prayer clause (a).

(iv) It will be necessary to record that time granted for compliance of clauses (i) and (ii) above is as per the statement made by the learned Advocate for the Applicant on instructions. Hence, there will be no further extension of time and in the event of non-compliance of the directions as per clauses (i) and (ii) above, Application for condonation of delay will stand dismissed without further reference to the Court.

(v) Application stands allowed in above terms”.

3. It is explicit from order that no further extension of time would be granted in the event of non compliance of the directions as per clause (i) and (ii) of the said order.

4. On 2nd January, 2023, this Court (Coram: Amit Borkar, J.) has passed the following order;

“1. The applicant is seeking extension of period to deposit the decretal amount in compliance with order dated 30th August, 2022. The applicant in paragraph 7 has provided a schedule for deposit of entire decretal amount.

2. Considering the nature of order dated 30th August, 2023 and the reasons stated therein, the interim application is allowed in terms of prayer clause (a).

3. It is made clear that if the applicant fails to deposit amount as per the schedule stated in paragraph 7 of the order *Interim Application*, the interim application seeking condonation of delay shall stand dismissed without further reference to the Court.

4. Interim application stands disposed of in the above terms. No costs”.

5. In view of the aforesaid self operative orders passed earlier, application is rejected.

[PRITHVIRAJ K. CHAVAN, J.]