

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 15004 OF 2023
IN
COMMERCIAL FIRST APPEAL (L) NO. 23733 OF 2023
IN
COMMERCIAL SUIT NO. 6 OF 2021

MITC Rolling Mills Private Limited ... Applicant

In the matter between

MITC Rolling Mills Private Limited ... Appellant (Org.
Plaintiff)

V/s.

M/s. Renuka Realtors & Ors. ... Respondents
(Org. Defendants)

Mr. Amol Doijode a/w Meezan Patel for Applicant.

Mr. Sachin V. Masurkar a/w Sunitha P. and Nimish A. i/by Alvina
Castelino for Respondents.

**CORAM : DEVENDRA KUMAR UPADHYAYA, CJ. &
ARIF S. DOCTOR, J.**

DATED : 14th DECEMBER, 2023.

P.C. :

1. By the present Interim Application, the Applicant seeks condonation of delay of a period of 206 days in filing the captioned Appeal.

2. We have heard learned counsel Mr. Doijode for the Applicant, who has invited our attention to the said Application and pointed out therefrom the reasons which are more particularly set out therein explaining as to why the delay in filing present Appeal arose. The Application *inter alia* sets out that it was only in the second week of June, 2023 that the Applicant became aware that the Appeal had been rejected on 10th November, 2022 under the provision of Order XII Rule 11 of the Code of Civil Procedure, 1908.

3. The Applicant thereafter obtained a copy of the order on 18th November, 2022. He further submitted that the Applicant thereafter took expeditious steps to file the present Appeal and that the Applicant had a extremely good case on merits and thus the present Application ought to be allowed.

4. The Application is resisted by the Respondents, who have filed an Affidavit opposing the same. Learned counsel for the Respondents firstly points out that the Applicant has not explained the delay, and also points out that the Applicant has

made false and baseless allegations against their erstwhile Advocate alleging negligence, basis on which, the every day's delay is sought to be explained. He submits that for these reasons, the Application deserves to be dismissed.

5. We have heard learned counsel and considered the rival contentions. It is now well settled that every day's delay in assessing whether delay ought to be condoned is not essential. What has to be seen is, whether sufficient cause has been made out for the condonation of delay. The Applicant has in this regard placed adequate material to show that the delay in filing of the Appeal was not on account of willful negligence or lethargy on its part. We find none of the material relied upon by the Appellant has been controverted by the Respondents than making bald assertions. Even otherwise we find that in the present fact scenario, in the interest of justice, equity and good conscious requires that the delay be condoned and the Appeal be restored and heard on its merits.

6. Hence, Interim Application is allowed in terms of prayer clause "a" which reads thus;

"(a) this Hon'ble Court be pleased to condone the delay of 206 days in filing of this Appeal by allowing this Interim Application and the Appeal be numbered."

7. The present Interim Application is accordingly disposed of.

(ARIF S. DOCTOR, J.)

(CHIEF JUSTICE)