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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

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INTERIM APPLICATION NO.16171 OF 2023
IN
FIRST APPEAL (STAMP) NO.31190 OF 2018

Vijay M. Panchal, since deceased
through His L.Rs. - Mrs.Sarla V. Panchal & Ors. ...Applicants

IN THE MATTER BETWEEN :

The Municipal Corporation of Gr.Mumbai ...Appellant
V/s.
through His L.Rs. - Mrs.Sarla V. Panchal & Ors. ...Respondents

Mr.Bhavesh Wadhwani with Mr.Aavish Shetty i/b M.V.Kini & Co. for
the Appellant.

Mr.Navin Sheth for the Respondents.

CORAM : RAJESH S. PATIL, J.
DATE : 2ND NOVEMBER, 2023.

P.C. :-

1. This Interim Application is filed to bring on record the proposed legal heirs of the deceased – sole Respondent.
2. Heard. I have gone through the contents of the Interim Application. A case is made out to allow this Interim Application.
3. Interim Application is allowed in terms of prayer clauses (a) and (b). The amendment to be carried out within two weeks from today.

4. The Interim Application is accordingly disposed of.

WITH
CIVIL APPLICATION NO.1 OF 2019
IN
FIRST APPEAL (STAMP) NO.31190 OF 2018

Bombay Electric Supply & Transport Undertaking	...Applicants
V/s.	
through His L.Rs. - Mrs.Sarla V. Panchal & Ors.	...Respondents

1. This Civil Application is filed for condoning delay of 122 days in filing the First Appeal.

2. It is submitted by the Applicants that after certified copy of the impugned award was received, they had sought legal opinion from the advocate, handling the matter in MACT. After the opinion was received, they approached the advocate in High Court to file the Appeal. After approval was taken from the Senior Advocate an Appeal was drafted. However, there was Court vacation in the interim period. So also the concerned officer was transferred to some other location and in the process new officer could not take steps.

3. Advocate for the Applicants refers to the judgment of the Supreme Court in **State of Nagaland vs. Lipok AO & Ors.** reported in **(2005) 3 SCC 752**. In the said judgment, it has been concluded that the delay of 57 days in filing Criminal Appeal due to inaction on the part of certain officers. The State should not be put to loss on hyper technical ground by the Court.

4. Heard. I have gone through the contents of the Civil Application. There is no reply filed by the Respondents opposing this Civil Application, though served in the year 2019. According to me, case is made out to condone the delay in filing the First Appeal.

5. Civil Application is allowed in terms of prayer clause (a) subject to costs of Rs.25,000/- to be paid to the legal heirs of the Original Claimant, through their advocate, within a period of four weeks from today.

6. The Civil Application is accordingly disposed of.

(RAJESH S. PATIL, J.)