

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**INTERIM APPLICATION NO.2311 OF 2023
WITH
INTERIM APPLICATION NO.2766 OF 2023
IN
COMMERCIAL APPEAL (L) NO.539 OF 2019
FROM
ARBITRATION PETITION NO.1339 OF 2019**

Orra Realtors Private Limited
now known as
Kamallakshmi Realtors Private Limited : Applicant/
Through its authorised representative (Heir of Org.Plaintiff)
Mr. Siddesh Mandave

In the matter between

Orra Realtors Private Limited
now known as
Kamallakshmi Realtors Private Limited
Through its authorised representative
Mr. Siddesh Mandave : Plaintiff
Vs.
Vile Parle Mayur Co-operative
Housing Society Limited : Respondent.

Mr. Ashraf Ahmed Shaikh for the Applicant.
Mr. Prathamesh Kamat a/w Mr. Viral Thakkr i/by LJ Law for the
Respondent.

**CORAM : DEVENDRA KUMAR UPADHYAYA, CJ. &
ARIF S. DOCTOR, J.
DATE : 12th SEPTEMBER, 2023**

P.C. :

Interim Application No.2311 of 2023 is for restoration of captioned Appeal and Interim Application No.2766 of 2023 is for condonation of delay of four days in filing the captioned Appeal.

2. Mr. Shaikh, the learned counsel appearing on behalf of the Applicant/Appellant submits that the captioned Appeal came to be dismissed for non-removal of office objections under Rule 986 of the High Court (Original Side) Rules, 1980. He then invited our attention to the averments made in the Application and pointed out the circumstances in which the office objections required to be complied with. He pointed out that the same was not due deliberate inaction but was on account of circumstances beyond the control of the Appellant.

3. Mr. Kamat, the learned counsel appearing for the Respondent opposed the restoration of the captioned Appeal. He firstly submitted that the Applicant/Appellant had not made out

any sufficient cause for condonation of delay, and then submitted that, in any event, the captioned Appeal has become infructuous inasmuch as the Appellant/Applicant, who was appointed as a developer of the Respondent-Society has been replaced and the development agreement with new developer has now been entered into. Basis this, he submitted that the Interim Applications ought to be dismissed.

4. We have heard the learned counsel for the parties, and find, on perusal of the Interim Application for restoration, we find that sufficient cause for restoring the captioned Appeal has been made out as stated in the Application. We must note that there is no Affidavit in Reply opposing restoration of the captioned Appeal. Thus, in the interest of justice, the Appeal must be restored to file.

5. The objection of Mr. Kamat as to the fact that the captioned Appeal has now become infructuous would be considered when the Appeal is taken up for hearing.

6. At this stage we find that Interim Application No.2766 of 2023 has been filed for condonation of delay of four days in filing the captioned Appeal. The said delay is also condoned for the reasons set out herein above.

7. In view of aforesaid, Interim Application Nos. 2311 of 2023 and 2766 of 2023 are allowed. The captioned Appeal is restored to file and the delay in filing the same stands condoned.

8. The learned counsel for the Appellant/Applicant undertakes to remove and comply with all the office objections within a period of four weeks from today. It is made clear that on failure to do so, the captioned Appeal shall stand dismissed without further reference to the Court.

9. The Interim Application Nos. 2311 of 2023 and 2766 of 2023 are disposed of accordingly.

(ARIF S. DOCTOR, J.)

(CHIEF JUSTICE)