

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE
(COMMERCIAL DIVISION)

APOT No. 446 of 2023
With
CS No. 91 of 2022
RVWO/36/2023
IA No. GA-COM/1/2023

EXHIBITORS SYNDICATE LIMITED
VERSUS
POWER TOOLS AND APPLIANCES COMPANY PVT. LIMITED

BEFORE:

The Hon'ble JUSTICE I.P. MUKERJI

And

The Hon'ble JUSTICE BISWAROOP CHOWDHURY

Date : 2nd January, 2024

Appearance:

Mr. Shaunak Ghosh, Adv.
Mr. Subrata Goswami, Adv.

Mr. Chayan Gupta, Adv.
Mr., Shouveek Roy, Adv.
Mr., Pourush Bandyopadhyay, Adv.
Mr. Niket Ojha, Adv.

The Court: Order in terms of prayer [a] of the stay petition.

As the point involved is very short, we intend to dispose of this appeal dispensing with all formalities.

This appeal is against the judgment and order dated 18th November, 2023. By this order the learned single judge of this court condoned the delay of 152 days in filing the review application.

The appellant is aggrieved by this order.

Mr. Ghosh, learned advocate appearing for the appellant, took us extensively through the impugned judgment and order dated 18th November, 2023 as well as the pleadings made by the respondent-applicant in the review application. He argued that going by the findings

recorded by the learned single judge delay of 21 days was unexplained by the respondent-applicant. Furthermore, the pleadings would show that this delay could not be ascribed to any lawyer but to the applicant. The learned judge ought to have dismissed the application.

In our considered view, the learned judge was absolutely correct in his view. Out of 152 days' delay the majority period has been explained by the applicant and held to be sufficient but only 21 days could not be explained.

This is most minor delay.

We do not think that by this delay the applicant gained any advantage or the appellant-respondent in the review application has suffered any disadvantage. The Supreme Court has laid down from time to time that unless condonation of delay results in prejudice to the other party or causes mis-carriage of justice a matter is to be decided on merits and not disposed of on technicalities like delay. The learned judge has correctly used his discretion.

There is no merit in this appeal.

The appeal (APOT No. 446 of 2023) is hereby dismissed.

The stay application (IA No. GA-COM/1/2023) is also accordingly dismissed.

As affidavits have not invited, the allegations contained in the stay petition are deemed not to have been admitted.

(I.P. MUKERJI, J.)

(BISWAROOP CHOWDHURY, J.)