

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 2856 OF 2016

IN

FIRST APPEAL (ST) NO. 16179 OF 2016

Mr. Nawman Malik s/o Late M. H. Malik

...Applicant/
Appellant

Versus

Miss. Marie D'Mello d/o. Subastian D' Mello

...Respondent

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Mr. Ritesh Singh, Advocate for Applicant/Appellant.

None for Respondent.

CORAM : M.M. SATHAYE, J.

DATE : 12th JANUARY, 2024

P.C. :

1. Heard learned Counsel for the Applicant. None for the Respondent, though duly served and despite name of her Advocate appearing on board.

2. This is an Application for condonation of delay of 270 days in filing the above First Appeal. Inviting this Court's attention to the paragraph no 3 onwards of the Application, it is submitted that the impugned Order is a Order of rejection of plaint dated 14.08.2015. This rejection took place since certain objections were not removed by the Applicant/Plaintiff. It is submitted that in the first week of August-2015, the Applicant had gone to his native place in Uttar Pradesh for attending some religious ceremony, where he also suffered from malaria. Medical papers placed on record in support of

case.

3. Despite filing reply, nobody appeared for the Respondent. Perusal of the reply shows that most of the contentions raised therein are in respect of merits of the main suit and nothing specific is pleaded in respect of sufficient cause.

4. Considering the aforesaid facts and circumstances, and the extent of delay, though sufficient cause is made out, the Respondent needs to be compensated. Hence following Order is passed.

ORDER

(a) The Civil Application is allowed in terms of prayer clause(a). The delay is condoned. Appeal be numbered.

(b) This Order will be subject to the Applicant paying costs of Rs. 10,000/- to the Respondent within 4 weeks from today. It is clarified that, if the cost is not paid with its due proof submitted to the Registry, as stipulated above, the present application shall stand rejected without further reference to the Court.

5. All concerned to act on authenticated or digitally signed copy of this order.

(M.M. SATHAYE, J.)