

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

**CIVIL APPLICATION NO.3049 OF 2019
IN
FIRST APPEAL (ST) NO.16313 OF 2019**

Mrs. Janet Dominic D'souza & Anr. : Applicants
Vs.
M/s. Rupji Construction & Ors. : Respondents

Adv. Gautam Ankhad, Mr. Ankur Shah i/by Ashwin Ankhad & Associates,
for the Applicants.

Adv. Shailesh Redekar a/w Adv. Mohini D. Thorat, for the Respondent
No.2.

CORAM : KISHORE C. SANT, J.

DATE : 11TH MARCH, 2024

PC. :

1. Heard.
2. This Application is filed seeking condonation of delay of 61 days caused in filing the First Appeal. It is stated in the Application that the judgment & order under challenge is passed on 6th March, 2019. The certified copy was applied on 12th March, 2019 and it was delivered on 13th March, 2019. Application and the Appeal came to be filed on 7th June, 2019. It is stated that the Applicant was under bona fide impression that

the limitation for filing the Appeal is 90 days, as per Article 116 of the Limitation Act.

3. When the Advocate tried to file the Appeal, it was informed that in fact the limitation is only 30 days. In view of Section 15 of the Bombay City Civil Court Act, the delay is thus accidental and for the reason recorded above. Learned Advocate thus prays for condonation of delay.

4. Learned Advocate for the Respondent No.2 vehemently opposes the Application stating that there is no sufficient reason assigned for the delay. Ignorance of the provision of law is not an excuse. The Applicant has to show as to what prevented the Applicant from approaching this Court. The Respondent No.2 thus prays for rejection of Application.

5. Considering this submissions, this Court finds that delay is hardly of 61 days and that to because of the reason that the Applicant was under bona fide limitation that Article 116 of the Limitation Act is applicable.

6. This Court finds that the delay deserves to be condoned and the same is hereby condoned.

7. Civil Application stands allowed and disposed of.

8. Office to register First Appeal.

9. Parties are at liberty to circulate the copy after the same is registered.
10. First Appeal be placed on board dated 15th April, 2024.

(KISHORE C. SANT, J.)