



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10586 OF 2023

M/s. Balaji Enterprises and Another. ...Petitioners.

Versus

Vijay CHS Ltd and Others. ...Respondents.

*Mr. K. S. Dewal i/b Mr. Yash Dewal and Mr. Sham Thakur for the petitioner.
Mr. Vasant C. Patil for respondent no. 2.
Mr. Rohit Sachadeo for respondent no. 3.
Mr. D. A. Nalawade with Mr. Kishore Ajetroa for respondent no. 1 and 5.*

Coram : Sharmila U. Deshmukh, J.

Reserved on : January 22, 2024.

Pronounced on : January 29, 2024.

ORDER :

1. By this petition filed under Article 227 of the Constitution of India, exception is taken to the judgment and order dated 7th July 2023 passed by the Hon'ble Revenue Minister in Revision Application No. RTS-2722/Case No. 233/J-4 confirming the order passed by the District Superintendent of Land Records [for short "the DSLR"] in Appeal No. 2276 of 2021.

2. Before the DSLR, the Respondent No 1 filed an Appeal in the year 2021 challenging the order dated 23rd October, 2013 passed by

the City Survey Officer, Thane. By the said Order, the City Survey Officer dismissed the objection dated 7th October 2023 raised by one Shilpi Co-operative Housing Society Limited and granted approval to the urgent measurement no 429/2013 dated 2nd February, 2013 for sub-division of Final Plot No 247 and the consequent Mutation Entry No.1745 dated 29th September 2013. The maps were directed to be accordingly rectified and separate property cards as per the decision be prepared.

3. The Appeal filed before the DSLR on 16th June, 2021 was accompanied by supporting Affidavit affirmed on 8th February, 2021 and an application seeking condonation of delay. The present Petitioners resisted the Appeal contending that before passing of the order the City Survey Officer had given opportunity to the Appellant and all concerned to prove their ownership rights in the sub plots. It was contended that the Roznama would indicate that Shri Utpal Shah, treasurer of Respondent No 5 was present during the hearing held on 1st August, 2013. It was contended that there was no sufficient explanation tendered for the delay.

4. Vide order dated 17th May, 2022, DSLR condoned the delay of 7 years and 6 months by accepting the explanation tendered and placed the Appeal for hearing on merits. Against the order of DSLR, the

Petitioners preferred Revision under section 257 of the Maharashtra Land Revenue Code, 1966 to which reply was filed by Respondent no. 1 herein. By the impugned judgment and order dated 7th May 2023, the revision application came to be dismissed and the order of DSLR came to be confirmed.

5. Respondent no.1 had also filed Writ Petition No 1042 of 2021 before this Court and the Division Bench of this Court vide order dated 3rd May 2023 disposed of the said writ petition by accepting the statement made on behalf of municipal corporation that no area from Final Plot No.247/3 has been utilised to develop Final Plot No. 247/2.

6. Heard Mr. K. S. Dewal, learned counsel appearing for the petitioner, Mr. D. A. Nalawade, learned counsel appearing for respondent nos.1 and 5, Mr. Vasant C. Patil, learned counsel appearing for respondent no.2 and Mr. Rohit Sachadeo, learned counsel appearing for respondent no. 3.

7. Mr. Dewal, learned counsel appearing for the petitioner submits that the Appeal was not maintainable as the order dated 23rd October 2013 dealt with the objection raised by Shilpi Co-operative Housing Society Limited to the proposal of sub division of Final Plot No. 247 and Shilpi Co-operative Housing Society Limited was not made party

to the Appeal proceedings. He draws attention of this Court to the specific pleading in the Affidavit in reply to the Appeal that during the hearing before the City Survey Officer, the secretary of respondent no. 5 herein i.e., M/s. V. G Co-operative Housing Society Limited was present and he was directed to bring title deeds of the property which was not produced. He submits that respondent no. 1 and 5 were aware of the proceedings before the city survey officer and the contention that same came to their knowledge only in June 2020 cannot be believed. He submits that the DSLR has condoned the delay for the solitary reason of interest of justice which cannot be countenanced. He submits that the impugned order erroneously records that no document has been produced to show that notices about the sub division and sub division measurement was issued to Respondent No.1 without noticing the roznama which shows presence of treasurer of Respondent No.5. He submits that in the petition filed before this Court, this Court has recorded the statement of municipal corporation that no area from Final Plot No. 247/3 has been utilised to develop their plot which is Plot No.247/2 and as such there is no cause for challenging the order of sub division. He submits that even as of today, the property card of Plot No.247/3 stands in the name of M/s Vijay Builders and the order of city survey officer clearly records that notice was served upon Vijay Builders. He submits that the limitation

under the provisions of section 250 of the MLRC is 60 days and no sufficient cause is shown to condone the colossal delay of 7 years and 6 months. He further points that even if it is taken that respondent no. 1 became aware of the order in the year 2020, the affidavit in support of the Appeal annexed at page 98 of petition would indicate that the affidavit has been affirmed on 8th February 2021 and the appeal has been filed in June 2021. He also points out the resolution of respondent no. 1 of 8th February, 2021 resolving to file appeal. He submits that there is no explanation given for the delay from 8th February 2021 to June 2021. He submits that there is no challenge to the measurement order dated 2nd February, 2013. He submits that the construction is almost complete and as such even on merits the delay could not have been condoned. In support of his contentions, he relied upon following decisions :

- [i] ***State of Gujarat v. Patil Gahav Natha [1969 (2) SCC 187];***
- [ii] ***Basawaraj v. Special Land Acquisition Officer [(2013) 14 SCC 81];***
- [iii] ***Balwant Singh v. Jagdish Singh [(2010) 8 SCC 685];***
- [iv] ***P. K. Ramchandran v. State of Kerala [(1997) 7 SCC 556];***
- [v] ***Udit Narain Singh Malpaharia v. Additional Member Board [AIR 1963 SC 786]; and***
- [vi] ***Mohammed Takki Mohamed Omar Ansari v. Mohammad Juber Abdul Rahim Shaikh [decision of this Court in W.P. 769 of 2010, dtd. 8th June 2022].***

8. *Per contra* Mr. Nalawade, learned counsel for respondent nos.1

and 5 submits that fraud has been played by the City Survey officer and the Petitioner. He points out that the application for sub division of plot was not filed by the petitioner but by respondent no. 2 herein, i.e., Laxman Nagar Co-operative Housing Society Limited. He submits that the factual position is that in the town planning scheme, Plot No. 247 was admeasuring 9221.15 sq. mtrs. In the year 1971, it was divided into three parts, Sub Plot No 247/1 admeasuring 3125 sq. mtrs of Laxman Nagar Co-operative Housing Society Limited, Sub plot No. 247/2 admeasuring 4658.18 belonging to Vijay Builders and Sub plot No. 247/3 (later on known as plot no. 247/4) admeasuring 1685.50 sq. mtrs which was RG area. He submits that in respect of sub plot No. 247/2, plans were approved for residential and commercial premises and on 7th September 1972, respondent no. 1 Vijay Apartment was constructed. He submits that on the same plot, plans were put up for construction of cinema hall, however, the arbitrator by its communication dated 14th May 1973 observed that the residential building and the cinema hall should not be on the same plot and as such Plot No. 247/2 was further divided into 247/2 and 247/3. He submits that the arbitrator in the said communication has specifically stated at the time of dividing Plot No. 247/2 into 247/2 and 247/3, that the area of plot No. 247/3 should comprise of the area utilised for the construction of the residential and commercial building. He

would further submit that subsequently, Plot No. 247/2 having an area of 2543 sq. mtrs, was approved for construction of cinema hall which was constructed on an area admeasruing 1930.07 sq. mtrs. He submits that rest of the area of Plot no. 247/3 was open area. He would further submit that after excluding the FSI used for constructing the cinema hall, from the balance FSI and after amalgamating Plot No. 247/2 and 247/3, new building i.e., respondent no.5- V. G. Apartment was constructed after obtaining permission. He submits that the buildings of respondent no. 1 and respondent no. 5 which were built on Plot No. 247/3 utilised area of 3053sq. mtrs.

9. As regards the delay caused in filing the Appeal, he submits that sufficient explanation has been tendered for condoning the delay. He submits that knowledge was acquired in the year 2020 after construction commenced on Plot No 247/2. He submits that after obtaining legal advice, writ petition was filed in this Court, however the hearing was delayed due to covid pandemic and thereafter appeal came to be filed. He submits that Utpal Shah was not a member of respondent no.5. He submits that even otherwise under section 150 of the MLRC, respondent no. 1 was entitled to notice. He submits that by order dated 23rd October 2013, the area of Final Plot No. 247/3 has been reduced to 1652.90 sq. mtrs. and as such they are aggrieved.

He submits that only the delay has been condoned and the appeal is yet to be heard on merits.

10. He tenders across the bar copy of the communication dated 27th February 2009 enclosing a noting which shows that total area of Final Plot No.247 was 9221.15 sq. mtrs., Plot No. 247/2 was admeasuring 1632.83 sq. mtrs. and Plot No. 247/3 was admeasuring 3053.15 sq. mtrs.. He also tenders an order of the city survey officer dated 20th September 2010 rejecting the application for measurement previously filed by the petitioner as necessary documents were not received from Thane Municipal Corporation. He points out that in these proceedings, respondent no.5 upon being served has raised an objection. He submits that the submissions recorded in the said order would indicate the knowledge of the petitioner as regards the existence of respondent no.1 and respondent no.5 on Plot No. 247/3. In support of his contentions, he relied upon following decision :

Pandurang Dhondli Khape v. Atmaram Bapu Shinde [decision of this Court in W.P. No. 3003 of 2014 dated 14th October 2022.]

11. In rejoinder, Mr. Dewal would submit that at the time of construction of cinema hall it was only respondent no. 1 Vijay Co-operative Housing Society Limited which was constructed. He submits that amalgamation was only on paper as at that time there was no

proposal for construction of respondent no. 5, i.e., V.G Co-operative Housing Society Limited. He submits that more than 11 floors have been completed by the Petitioner and as such grave prejudice would be caused if delay is condoned.

12. Considered the submissions and perused the record.

13. The factual position as regards Final Plot No.247 and its subsequent sub division into sub plot Nos. 247/1, 247/2 and 247/3 which finds place in the appeal filed by respondent no. 1 has not been disputed by learned counsel for the petitioner. I have carefully gone through the order of 23rd October 2013. Perusal of the order indicates that application was filed by respondent no. 2 herein Laxman Nagar Co-operative Housing Society Limited seeking sub division and measurement. During that proceedings, as there was some discrepancy found between the sub plots maps, the property cards and the occupation of plots as well as the ownership area, notices were directed to be issued to the concerned, and the matter was fixed for hearing. It is in these proceedings that Shilpi Co-operative Housing Society Limited filed their objection. The order further indicates that during the hearing neither M/s. Vijay Builders was present nor any reply was filed by M/s. Vijay Builders. In the order of 23rd October, 2013 there is no mention of notices being issued to

Respondent No.1 and Respondent No.5. Before this Court, the Roznama was not produced to indicate that the treasurer of Respondent No 5 was present during the hearing. Perusal of the order does not support the contention of Mr. Dewal that during the hearing, the secretary of respondent no. 5 was present and that he was called upon to produce the title deeds which he failed to produce.

14. By order dated 23rd October 2013, Final Plot No. 247 was sub divided into 247/1, 247/2 , 247/3 and 247/4 as follows:

Sr. No.	T.P.1/No.	Area		Name of the holder.
1	247/1	3036.15		Laxman Nagar CHS
2	247/2	2846.60		M/s. Balaji Enterprises thr. Partner Nos. 1 to 9
3	247/3	1652.90		M/s. Vijay Builders thr. Partners 1 to 14.
4	247/4	1685.50		Open Plot (R.G.) 1] Laxman Nagar C.H.S. 2] M/s. Vijay Builders. 3] M/s. Gopal Das Vasudeo. 4] Shilpi C.H.S.
		Total 9221.15 sq. mtrs.		

15. Perusal of the order indicates that the objection raised by Shilpi Co-operative Housing Society Limited who is adjacent plot owner, i.e., Plot No. 233, is that the sub division should not affect their plot and there is no objection as regards Plot No. 247. Considering that Shilpi Co-operative Housing Society was not occupier of Plot No 247 and the

sub division order did not affect any right of Shilpi Co-operative Housing Society, it was not necessary party to the appeal proceedings so as to affect its maintainability. It appears that the application was in fact moved by respondent no. 2 Laxman Nagar Co-operative Housing Society Limited who was made party to the appeal proceedings initiated by respondent no.1. As regards impleadment of the owner Vijay Builders is concerned, the aggrieved parties were respondent nos.1 and 5. It is not demonstrated that any rights of M/s. Vijay Builders was to be affected by the outcome of the proceedings. Pertinently, M/s. Vijay Builders had not bothered to appear before the City Survey Officer. The presence of Vijay builders is not demonstrated to be necessary for adjudicating the controversy. In any event, the appeal is yet to be decided on merits and necessary application can be made to join M/s. Vijay Builders, if required.

16. Mr. Dewal has not disputed that the construction of Respondent no. 1 and 5 on Plot No. 247/3 was carried out by amalgamating the FSI of Plot No. 247/2 and 247/3, although his contention is that amalgamation was only on paper. The case of respondent no. 1 is that the area of respondent no. 1 and 5 society is 3053 sq. mtrs, whereas by the impugned order of 23rd October 2013, upon sub-division the area of Plot No 247/3 now admeasures 1652.90

sq. mtrs and as such the rights of the Respondents are affected by the order of sub-division. There is no material to demonstrate that notices were issued by City Survey Officer to the Respondent No 1 and 5 and as such it cannot be said that Respondent No 1 was aware of the proceedings and despite thereof did not file the Appeal within time.

17. It will be profitable to refer to decision of the Apex Court in the case of ***Sheo Raj Singh v. Union of India [(2023) 10 SCC 531]***, where the Apex Court in the context of considering the issue of condonation of delay has held in paragraphs 30 to 33 as under:

“30. Considering the aforementioned decisions, there cannot be any quarrel that this Court has stepped in to ensure that substantive rights of private parties and the State are not defeated at the threshold simply due to technical considerations of delay. However, these decisions notwithstanding, we reiterate that condonation of delay being a discretionary power available to courts, exercise of discretion must necessarily depend upon the sufficiency of the cause shown and the degree of acceptability of the explanation, the length of delay being immaterial.

31. Sometimes, due to want of sufficient cause being shown or an acceptable explanation being proffered, delay of the shortest range may not be condoned whereas, in certain other cases, delay of long periods can be condoned if the explanation is satisfactory and acceptable. Of course, the courts must distinguish between an ‘explanation’ and an ‘excuse’. An ‘explanation’ is designed to give someone all of the facts and lay out the cause for something. It helps clarify the circumstances of a particular event and allows the person to point out that something that has happened is not his fault, if it is really not his

fault. Care must, however, be taken to distinguish an 'explanation' from an 'excuse'. Although people tend to see 'explanation' and 'excuse' as the same thing and struggle to find out the difference between the two, there is a distinction which, though fine, is real.

32. An 'excuse' is often offered by a person to deny responsibility and consequences when under attack. It is sort of a defensive action. Calling something as just an 'excuse' would imply that the explanation proffered is believed not to be true. Thus said, there is no formula that caters to all situations and, therefore, each case for condonation of delay based on existence or absence of sufficient cause has to be decided on its own facts. At this stage, we cannot but lament that it is only excuses, and not explanations, that are more often accepted for condonation of long delays to safeguard public interest from those hidden forces whose sole agenda is to ensure that a meritorious claim does not reach the higher courts for adjudication.

33. Be that as it may, it is important to bear in mind that we are not hearing an application for condonation of delay but sitting in appeal over a discretionary order of the High Court granting the prayer for condonation of delay. In the case of the former, whether to condone or not would be the only question whereas in the latter, whether there has been proper exercise of discretion in favour of grant of the prayer for condonation would be the question. Law is fairly well-settled that "a court of appeal should not ordinarily interfere with the discretion exercised by the courts below".

18. Now, coming to the explanation tendered by the Respondent No 1 for the delay. Firstly it needs to be noted that the specific case of the Respondent No 1 is that it acquired knowledge of the order of sub division only when construction commenced on Plot No.247/2 and inquiries were made. The certified copies of the order dated 23rd October, 2013 was received on 9th October, 2020. In my view, to count the delay from the date of the order dated 23rd October, 2013 would

be doing injustice to the Respondent No 1 as the record does not indicate that notices were issued to the Respondent No 1 and 5 and as such they were unaware of the proceedings. The delay counted from 9th October, 2020, i.e., from the date of knowledge till June, 2021 amounts to period of about eight months.

19. For this period of about eight months, the explanation tendered is that on 9th October 2020, they obtained certified copies pursuant to which there was discussion amongst the members and after obtaining legal advice, writ petition came to be filed which was also delayed due to Covid pandemic and ultimately the Appeal was filed on 16th June 2021. Much emphasis has been laid on the affidavit affirmed on 8th February 2021 filed in support of the application to contend that the affidavit was affirmed in February, 2021, however the appeal has been filed in June 2021. It needs to be noted that during this period writ petition had been filed and respondent no. 1 was duly prosecuting the same. The explanation set out in the application seeking condonation of delay is that the hearing of writ petition was delayed due to covid and thereafter after obtaining the legal advice, the appeal has been filed. One cannot lose sight of the fact that respondent nos.1 and 5 are co-operative housing societies and completely dependent on the legal advice as regards the appropriate steps to be taken. Judicial

notice can be taken of the fact that the 1st and 2nd wave of covid pandemic had slowed down the affairs and as such no fault can be found even if the affidavit was affirmed on 8th February 2021 and was filed in the month of June 2021. What matters is not the length of delay but the explanation tendered. Even if, it is accepted that there has been delay from 8th February 2021 to June 2021 in filing the appeal, considering the claim that by virtue of order of sub division, the area of plot No. 247/3 has been reduced from 3053 to 1652.90 sq. mtrs, for purpose of doing substantial justice, the matter cannot be thrown out at the threshold on the ground of delay.

20. By the order dated 17th May 2021, the DSLR has considered the explanation tendered and also considered that respondent no. 1 and 5 are affected by the order of sub division dated 23rd October 2013. The DSLR held that it was necessary for the notices to be issued to respondent no. 1 and 5 being the adjacent plot holders and there has been violation of the principles of natural justice. It was held that if the delay is not condoned, grave prejudice and loss will be caused to respondent no. 1 and 5 and that they are entitled to be heard and as such the delay has been condoned. The submission of Mr. Dewal that only on the ground of principles of natural justice, the delay has been condoned cannot be sustained upon reading of the order of DSLR. The

rival submissions have been considered by the DSLR.

21. In Revision, the Hon'ble Revenue Minister considered as to whether the delay is required to be condoned and the appeal be adjudicated on merits. The impugned order notes that there was no document brought on record by the petitioner to show that respondent no. 1 was given any notice of the sub division of the plots and that it is only in the month of May/June 2020 when the constructed started that knowledge was acquired. The impugned order notes the settled position in law that liberal approach has to be adopted and the matter is required to be decided on merits and as such has condoned the delay.

22. It need not be said that no litigant gains by delaying the matter and in fact the burden enhances as he has to provide sufficient explanation for the delay. In the present case, respondent no. 1 upon receiving the knowledge has acted swiftly and had filed writ petition and as such it cannot be said that the delay is on the ground of any negligence or want of bonafide or deliberate inaction on the part of respondent no.1. The explanation tendered by the Respondent no 1 is bonafide and adequate. It is settled that liberal approach is to be adopted while considering provisions of Section 5 of Limitation Act, 1963, with the caveat that there is no lack of bonafides and

negligence on part of the litigant seeking condonation. From the facts narrated above, the Respondent No 1 cannot be said to be guilty of negligence.

23. Coming to the submission that the construction is almost complete and grave prejudice will be caused if delay is condoned, in my view, the Petitioner has itself to blame. It is not the case of the Petitioner that it was unaware of the adjacent plot occupied by Respondent No 1 and 5 and rightly so no such case can be put forward considering the previous order dated 20th September, 2010 which records the objection taken by Respondent No 5. The Petitioner are developers and not layman. It was expected of the Petitioners to take proper care to ensure that notices are issued and served to all persons bound to be affected by the order of sub division. Pertinently, the Division Bench of this Court in Writ Petition No. 1042 of 2021 has recorded the statement of the corporation that no area from Final Plot No. 247/3 has been utilised to develop the petitioner's plot. That being the case, in my view, if the FSI is not utilised as stated no prejudice will be caused if the delay is condoned and the appeal is heard on merits.

24. Considering the facts of the case, the DSLR and Hon'ble Revenue Minister has rightly exercised the discretion in favour of the

Respondent No 1 and condoned the delay.

25. Now coming to the decisions relied upon by the parties, in the case of ***Pandurang Dhondli Khape v. Atmaram Bapu Shinde (supra)*** learned Single Judge has held that as far as the delay of 25 years is concerned it can only be made attributable to the respondent if the respondents were actually served in the enquiry in 1986. Learned Single Judge has further held that the statute of limitation would apply in case where long dormant claims have more of cruelty than justice in them.

26. As regards decision in the case of ***State of Gujarat v. Patil Gahav Natha [1969 (2) SCC 187]***, the same was pressed to support the submission that power of revision must be exercised in reasonable time and the length of reasonable time must be determined by the facts of the case and nature of the order if revised. The Apex Court therein has held that after grant of permission for building purposes, the occupant is likely to spend on starting building operations at least within a few months from the date of permission and in that case setting aside the order after more than one year was passed too late. The Apex Court had also quashed the order of Commissioner that he did not give any reasons for his conclusions. Although there is no

quarrel with the proposition laid down by the Apex Court, in the instant case it needs to be noted that by the impugned order there has been a reduction in the area of Final Plot No. 247/3 without any notice being given to respondent nos.1 and 5 whose rights are affected by the sub division. It also needs to be noted that by not giving any notice to respondent nos.1 and 5, despite being aware of their occupation of Final Plot No. 247/3, the principles of natural justice have been violated.

27. As regards the decision in the case of ***Basawaraj v. Special Land Acquisition Officer (supra)***, the Apex Court in paragraph no.15 has held as under :

“The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the “sufficient cause” which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bonafide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters **laid down by** this court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature.”

28. The decision would indicate that sufficient cause means an adequate and enough reason to be tendered by the litigant for delay and it is only where the parties are found to be negligent or for want of bonafide on his part or found to have not acted diligently or remained inactive, there is no justifiable ground to condone the delay. If the enunciation of law is applied to the facts of the present case, it would enure to the benefit of respondent no. 1 inasmuch as immediately after being aware of the construction being carried out prompt steps were taken to obtain the certified copies and respondent no. 1 thereafter filed a petition before this Court and also an appeal before the DSLR. The conduct of respondent no.1 could not be found lacking in bonafide or be termed as negligent or inactive.

29. As regards the decision in the case of **Balwant Singh (supra)**, the same principles as in the case of **Basawaraj (supra)** were reiterated. In that case, the Apex Court had held that the decisive factor in condonation of delay is not the length of delay but the sufficiency of satisfactory explanation. This observation of the Apex Court is sufficient answer to the submission of learned counsel for the petitioner that despite the affidavit having been affirmed on 8th February 2021, the appeal has been filed in the month of June 2021. As held by the Apex Court what is required to be considered is the

sufficiency of the satisfactory explanation, which in this case has been, in my opinion, satisfactorily explained.

30. As regards the decision in the case of ***P. K. Ramchandran (supra)***, in the facts of that case, the explanation which was tendered was far from satisfactory and as such the Apex Court had set aside the order of condonation of delay. The facts of the case are clearly distinguishable.

31. The decision in the case of ***Udit Narain Singh (supra)*** was pressed into service in support of the submission as regards the non joinder of necessary parties. In the facts of that case, the High Court had vacated the order without successful party being before it and and the Apex Court held that such a party is a necessary party. In the present case, as already discussed above, Shilpi Co-operative Housing Society Limited was the occupant of adjoining Final Plot No 233 and has nothing to do with Final Plot No. 247.

32. As regards the decision in ***Mohammed Takki Mohammed Omar Shaikh (supra)***, learned Single Judge of this Court has refused to condone the delay as the reason put forth in the application was proved to be false. There is no such factual position in the present case and in the facts of that case, the Court had held that concept of

that approach of the Court must be liberal cannot be overstretched as would put premium on dishonesty. In the present case there is not even a submission that there is any lack of bonafide on the part of respondent no. 1.

33. Having regard to the discussion above, I do not find any warrant for interfering with the impugned order condoning the delay. Petition fails and stands dismissed.

[Sharmila U. Deshmukh, J.]

34. At this stage, request is made for extending the interim protection which was operating in favour of the petitioner till today. At the request of learned counsel appearing for the petitioner, the interim protection which was granted earlier is extended for a further period of six weeks from the date of uploading of the order.

[Sharmila U. Deshmukh, J.]