

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 4208 OF 2021
IN
CIVIL REVISION APPLICATION (ST) NO. 20853 OF 2021**

Shehab Sulatan Bohra	...Applicant
Versus	
M/s. Dadar Motor Works	...Respondent

Mr. Kamlesh Tiwari a/w Shivam Mishra for the Applicant.
Mr. Prashant Chawan, a/w Navdeep Vora, Ms. Hemal i/b Navdeep Vora and Associates for the Respondent.

**CORAM : M.M.SATHAYE, J.
DATE : 15th FEBRUARY 2024**

PC. :

1. Heard learned counsel for the parties. Perused the application and affidavit in reply.
2. This is an application by the Applicant/landlord seeking Condonation of Delay of 750 days in filing the above Revision Application.
3. The reason stated in the application is that after the impugned Judgment and Order was passed on 03.07.2019, the Applicant had entrusted the matter with a lawyer for filing necessary proceeding and he was under bonafide impression that the concerned Advocate and his office staff will take necessary steps. It is submitted that the

SNEHA
NITIN
CHAVAN

Digitally signed by
SNEHA NITIN
CHAVAN
Date: 2024.02.17
15:19:36 +0530

Applicant's Advocate did not file necessary proceedings in time, until beginning of the covid pandemic in March 2020. It is contended that however, during the period when the pandemic was continuing, on 30.10.2021, the present application is filed. Therefore, if it is technically counted from 03.10.2019 (when 90 days period for filing Civil Revision Application is over) the delay works out to be about 750 days. It is however urged that the period from 15.03.2020 should not be considered against the Petitioner since the limitation was under suspension by the order of the Hon'ble Supreme Court during covid pandemic period from 15.03.2020.

3. Learned counsel for the Applicant submitted that Respondent can be suitably compensated and delay should be condoned in the interest of justice, considering that opportunity to prosecute the matter on merits is necessary. He submitted that the Applicant may not be shown door on the ground of delay.

4. On the other hand, the learned counsel for the Respondents strenuously opposed the application. Inviting this Court's attention to the affidavit in reply filed by the Respondent, it is submitted that the suspension of limitation under order of the Hon'ble Supreme Court from 15.03.2020 to 28.02.2022 will not come to the aid of the Applicant, in the peculiar facts of this case, because limitation to file revision has not expired during the said period and therefore, the entire delay of 750 days must be explained by the Applicant.

5. It is a matter of common knowledge that under the orders of

the Hon'ble Supreme Court, the limitation from 15.03.2020 till 28.02.2022 has been excluded. The only question is whether in the present case, benefit of this order can be given from 15.03.2020 or not. Perusal of the order of the Hon'ble Supreme Court dated 10.01.2022 in Misc. Application No. 21 of 2022 shows that in March 2020 the Hon'ble Supreme Court had taken suo moto cognizance of the difficulties that might be faced by the litigants in filing the litigation within the period of limitation prescribed under the general law. Under clause 5(II) of the said order, it is stated that balance period of limitation remaining as on 03.10.2021, if any, shall become available with effect from 01.03.2022. This clause is pressed into service to submit that this order will not help the Applicant.

6. The Hon'ble Supreme Court, considering the larger issue of difficulty that might be faced by the litigants in extra ordinary circumstances prevailing in the country during the covid pandemic has passed the order suspending the period of limitation from time-to-time. The order ultimately excluded the entire time from 15.03.2020 to 28.02.2022.

7. In such situation in my view, taking hyper-technical view that since limitation is not over during the period between 15.03.2020 to 28.02.2022, the order or a clause thereunder will not help after 15.03.2020 is not just and equitable. There is nothing to disbelieve the explanation given by the Applicant about being under bonafide impression that his lawyer will do the needful. Under this impression, the delay that has occurred from 03.10.2019 to

15.03.2020, works out to around 165 days only. The party waiting under such impression for 165 days cannot be treated so harshly, to hold that he is not entitled to Condonation of Delay at all.

8. In light of the aforesaid circumstances, sufficient cause is made out and delay can be condoned provided the Applicant is directed to pay appropriate costs.

9. Hence, the following order :

(i) Interim Application is allowed in terms of prayer clause (a).

(ii) Delay is condoned subject to the Applicant paying a costs of Rs.10,000/- to be paid to Kirtikar Law Library, Room No. 36, Bombay High Court, within a period of 3 weeks from today.

(iii) It is clarified that if the costs are not paid within stipulated time, the application shall stand dismissed without further reference to the Court.

10. All concerned to act on duly authenticated/digitally signed copy of this order.

[M.M.SATHAYE,J.]