



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1220 OF 2017

The State Of Maharashtra
(Thr. Hon'ble Chief Secretary) And Ors.

...Applicants

Versus

Somnath Rangnath Najan

...Respondent.

Adv. A. S. Gavai, AGP for the Applicants.

Adv. Sanjeev Kadam a/w Adv. Mayur Govind Sanap for the Respondent.

Coram : Sharmila U. Deshmukh, J.

Date : April 1, 2024.

P. C. :

1. Heard.
2. Civil Application has been preferred for condonation of delay of 1 year 229 days caused in preferring the Second Appeal. The Appeal has been filed challenging the judgment dated 5th November, 2014 passed by the Appellate Court confirming the decree passed by the Trial Court in Regular Civil Suit No. 1860 of 2003.
3. Learned AGP for the Applicant State would submit that the last date for filing of the Appeal was on 3rd February, 2015. However, the Appeal proposal was forwarded to the law and judiciary department on 5th May, 2015. He would further submit that on 2nd November,

2015, a resolution was issued by law and judiciary department for filing of Appeal in this Court. As the resolution was received without the certified copies of the judgment and decree, the office of the Government Pleader issued communication seeking certified copies of the relevant documents for filing the Second Appeal. He would further submit that on 11th July, 2016, application for certified copy was made and after the certified copies were received, the office of the Government Pleader called upon the Appellant No. 4 to deposit the requisite amount for payment of Court fees. He submits, thereafter the Second Appeal was drafted and filed and as such, there was delay.

4. *Per contra*, learned counsel for the Respondent submits that the delay of 1 year 229 days has not been sufficiently explained. He submits that even considering the merits of the matter the delay is not required to be condoned as in the meantime the Respondent has retired and his pension proceedings are held up due to pendency of the Second Appeal. He would further submit that after the decree was passed in the year 2014 the proposal was moved in May 2015 which is way beyond the last day for filing of the Second Appeal.

5. Considered the submissions and perused the record.

6. The facts of the case would indicate that the proverbial impersonal machinery of the State Government and the bureaucratic methodology adopted by the Government Departments mainly contributed to the delay in challenging the judgment. It cannot be disputed that at the government level, the decisions are taken at slow pace. It also needs to be considered that an Appeal on behalf of the State Government stands on a different footing as usually the State represents the collective cause of the community. In the present case, it appears that there is a challenge to the appointment of the Respondent contending that the same is not as per Rules. As such, in my opinion although there is a delay of 1 year and 229 days it is in the interest of justice that the Appeal be decided on merits. It is well settled that each and every days delay is not required to be explained and what is material is not the length of the delay but the explanation. In the present case, it cannot be said that there has been an unexplained delay. As the reasons set out in the Civil Application would indicate that it is only due to the bureaucratic machinery that there has been a delay in filing of Second Appeal.

7. Having regard to the discussion above, delay is condoned. Civil Application is allowed.

[Sharmila U. Deshmukh, J.]

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