

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

**INTERIM APPLICATION NO. 17612 OF 2023
IN
ARBITRATION APPEAL (L) NO. 25129 OF 2023**

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**Padmashree Dr. Vitthalrao Vikhe Patil Sahakari
Sakhar Karkhana Ltd. & Anr.**

.. Applicants/Appellants

Versus

The Cosmos Co-operative Bank Ltd. & Ors.

.. Respondents

Mr. Rohaan Cama a/w Amit Patil i/b. Parinam Law Associates *for the Applicants/Appellants.*

Mr. S. S. Panchpor a/w Mayur Jadhav i/b. Radhika Panchpor, *for Respondent Nos. 1 and 2.*

**CORAM : B. P. COLABAWALLA &
SOMASEKHAR SUNDARESAN, JJ.**

DATE : JANUARY 11, 2024

P. C.

1. The above Interim Application is filed seeking a condonation of delay of 163 days in preferring the above Appeal. The explanation for the said delay is set out in the relevant paragraphs of the Interim Application. The impugned order was passed on 5th May 2022 and the explanation given is that in September 2022, the Managing Director of Applicant No.1, along with other Representatives, visited Mumbai to meet their lawyers and informed them

about their discussion with their lawyers in Pune. The lawyers in Mumbai advised the Applicants that the impugned order is to be challenged by filing a writ petition. Though the writ petition was filed in December, 2022, it was disposed of as withdrawn on 18th August, 2023 with liberty to challenge the impugned order by filing an appeal. It is in these circumstances that the Appeal is filed and an application for condonation of delay is made.

2. The learned Counsel appearing for Respondent Nos. 1 and 2 submitted that looking at the conduct of the Applicants, no sufficient cause has been made out for condoning the delay. He submitted that there is absolutely no explanation as to why the Applicants approached the Writ Court after a period of six months after the passing of the impugned order. He, therefore, submitted that there was no merit in the above Interim Application and the same ought to be dismissed with costs.

3. We have heard the learned Counsel for the parties. We have carefully perused the papers and proceedings in the above Interim Application. We find that though the explanation given for the delay in preferring the Appeal is more particularly set out from paragraphs 7 to 51 of the above Interim Application, the real crux is set out from paragraphs 18 onwards. After carefully going through the Interim Application, we find that sufficient cause is

made out for condoning the delay. In these circumstances, the delay is condoned subject to payment of Rs. 1 Lac on or before 15th January, 2024

4. The learned Advocate appearing for Respondent Nos. 1 and 2 has fairly stated that the costs can be paid to any charitable institution. We accordingly order that the costs of Rs. 1 Lac shall be paid by the Applicants/Appellants to the Tata Memorial Hospital on or before 15th January, 2024.

5. Now that the delay is condoned, the Registry shall proceed to number the above Appeal subject to (i) the Applicant/Appellant paying the costs of Rs. 1 Lac to the Tata Memorial Hospital on or before 15th January, 2024; and (ii) the Applicant removing all other office objections also by 15th January, 2024.

6. With the consent of parties, we place the above Appeal for admission on 16th January, 2024 at 2.30 pm.

7. The parties are put to notice that since the issue involved in the above Appeal lies in a very narrow compass, this Court may proceed to dispose of the above Appeal at the admission stage itself.

8. The above Interim Application is disposed of in the aforesaid terms. No order as to costs.

9. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[SOMASEKHAR SUNDARESAN, J.]

[B. P. COLABAWALLA, J.]