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

WRIT PETITION NO. 3848 OF 2024

Sanjaykumar Mohanlal Gadiya

.. Petitioner

Versus

Pravinkumar Mohanlal Gadiya and Anr.

.. Respondents

-
- Ms. Vrushali Maindad, Advocate i/by Mr. Sudarshan Deshmukh,
Advocate for Petitioner.
-

CORAM : MILIND N. JADHAV, J.

DATE : APRIL 22, 2024.

P.C.:

- 1.** Heard Ms. Maindad, learned Advocate for Petitioner.
- 2.** Ms. Maindad, learned Advocate for the Petitioner would submit that in view of the order dated 22.03.2024, liberty may be given to the Writ Petitioner to challenge the Exhibit “5” order in MCA proceedings by condoning the delay so that the Petitioner may not be put to hardship. The impugned order below Exhibit “5” is passed on 02.11.2023. Statutory Appeal ought to have been filed within a period of one month from the date of the said order i.e. by 02.12.2023. The present Writ Petition is filed on 15.12.2023.
- 3.** In that view of the above, there is a delay of approximately 13 days and rest of the time has been spent in prosecuting the present Writ Petition.

4. Request made by Ms. Maindad is absolutely fair. Writ Petitioner is allowed to withdraw the present Writ Petition and permitted to file the statutory Misc. Civil Appeal to challenge the Exhibit “5” order dated 02.11.2023 in MCA. The MCA that shall be filed by the Writ Petitioner shall be heard by the learned Appellate Court on its own merits and strictly in accordance with law. The delay in filing the statutory MCA to challenge the Exhibit “5” order stands condoned by this Court in the interest of justice, considering the wide amplitude exercised by this Court in Writ Petition filed under the provisions of Article 227 read with Article 226 of the Constitution of India, subject to the said MCA being filed before the District Court within 2 weeks from today positively. If it is so filed, the delay, if any, in filing the MCA stands condoned by this Court in the interest of justice.

5. With the above observations and findings, Writ Petition is disposed of as withdrawn.

6. It is clarified that this Court has not expressed any opinion on the merits of the matter as also the findings returned by the learned Trial Court in the Exhibit “5” order.

7. All contentions of the Writ Petitioner are expressly kept open before the learned District - Appellate Court.

8. Writ Petition is disposed.

[MILIND N. JADHAV, J.]

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