

Kavita S.J.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 10267 OF 2024

IN

ARBITRATION APPEAL (L) NO. 18603 OF 2024

Dedicated Freight Corridor Corporation of
India Limited

...Applicant/
Appellant

Versus

Mr. Nelson Simon Rebello & Ors.

...Respondents

Ms. Dikshita Gupte for the Applicant/Appellant.

Mr. P.A. Pol a/w Mr. Sharad Suryawanshi, Ranjit Hatkar i/b Pal Legal
Juris for the Respondents.

CORAM : R.I. CHAGLA, J.

DATED : 17th DECEMBER, 2024.

ORDER :

1. By this Interim Application, the Applicant/Original Appellant has sought condonation of delay of 156 days in filing of the present Appeal.

2. The delay of 156 days has been referred to as 67 days in Paragraph 11 of the Interim Application. It is mentioned that the

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certified copy of the Judgment / Order passed by the Principal District Judge at Thane had been applied for on 16th December, 2023 and received on 3rd January, 2024. Hence, it is submitted that the Appeal / Petition has been filed on 8th June, 2024 with a delay of 67 days beyond the limitation period of 90 days from the date of receipt of Judgment / Order. The reason for delay is mentioned in Paragraph 12 of the Interim Application viz. that after receiving the impugned order, the same had been sent for approval for filing of Appeal but was delayed due to the final Authority being busy in acquisition process. Further, the authorized Representative / Competent Authority of the Applicant had to remain present on the site as structures were demolished and approx 3250 Project Affected Persons were required to be rehabilitated by following R&R procedure and the land was to be handed over to the contractor to start and complete the time bound project. This has been stated to have resulted in the delay in the decision making to challenge the impugned Order dated 11th October, 2023 and for finalizing of Appeal which the Applicant has submitted as un-intentional.

3. Having considered the reasons for the delay, it is well settled in the Judgment of the Supreme Court in **Government of**

*Maharashtra (Water Resources Department) Represented by Executive Engineer Vs. Borse Brothers Engineers and Contractors Private Limited*¹, that to condone delay sufficient cause does not include negligence or deliberate inaction or want of bonafides on the part of the Applicant in challenging the impugned order. It is further well settled that the delay in filing of the Appeal under Section 37 of the Arbitration Act has to be explained from the commencement of the period of limitation when the impugned order was passed and for which sufficient cause for the delay has to be shown. In the present case, it is merely stated that the final Authority was busy in acquisition proceedings. This is not considered to be a sufficient cause. The Supreme Court has held that there is no distinction between Government Authority and private person in considering condonation of delay in filing of an Appeal under Section 37 of the Arbitration Act. The law of limitation undoubtedly binds everybody including the Government.

4. In view thereof, the Application for condonation of delay of 156 days in filing of the present Appeal under Section 37 of the Arbitration Act cannot be condoned and accordingly, the Application

¹ (2021) 6 SCC 460

is rejected.

5. In view of the Interim Application being disposed of in the above terms, the Arbitration Appeal does not survive and is also disposed of.

[R.I. CHAGLA, J.]