



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.12039 OF 2024

IN

FIRST APPEAL NO.1173 OF 2015.

Laxman Bhagoji Chookulkar

... Applicant-
Appellant

Vs

Maulesh Builders Pvt. Ltd. and Anr.

...Respondents

Mr. Pradip R. Kadam for the Applicant-Appellant.

Mr. S. K. Khan for the Respondents.

Coram : Sharmila U. Deshmukh, J.

Date : 23rd September, 2024.

P. C. :

1. Interim application has been preferred seeking condonation of delay of 2 years 11 months and 15 days caused in preferring the present application and for recalling of the conditional order of dismissal dated 5th July 2019 for non filing of the paper book.
2. Learned counsel for the applicant would submit that by order of 5th July 2019 the paper book had to be filed within a period of one year which ended in July 2020 during the Covid pandemic. He submits that due to intervening pandemic, there was loss of communication with the Appellant and neither paper book could be filed and nor the

present application within time.

3. Learned counsel appearing for the respondent opposes the said application and submits that order of 5th July 2019 directed the paper book to be filed within one year and no sufficient reason has been given for non compliance of the said order.

4. It cannot be disputed that the period of one year expired in the year 2020. The Apex Court in *Suo Moto Writ Petition 3/2020* extended the period of limitation from 15th March 2020 to February 2022. The present application has been filed in the year 2024 and as such delay which is stated to be of 2 years 11 months and 15 days would amount to delay which is after the extended period of limitation.

5. Learned counsel for the applicant had submitted that it was due to oversight on part of learned counsel for the appellant that private book could not be filed even after the extended period of limitation and even present application for setting aside the conditional order of dismissal could not be filed.

6. Although it is sought to be opposed by learned counsel for respondent No.1, the fact remains that due to Covid pandemic the Court operations as well as the affairs of the entire country were temporarily suspended. As appeal was already admitted in the year 2019 it is a plausible explanation that the advocate for the applicant lost sight of the subject matter and therefore the delay has been

occurred. Considering the intervening events, the explanation tendered is sufficient explanation. It also needs to be noted that non compliance of non filing of paper book in interest of justice can be condoned and time can be given for filing the paper book so that the matter can be argued on merits. For any inadvertence or omission on the part of the advocate, the litigant cannot be made to suffer.

7. In light of the above, delay of two years 11 months and 15 days stands condoned. Order of dismissal of the First Appeal for non filing of the private paper book is recalled. First Appeal is restored to file. Let private paper book be filed within a period of 8 weeks from today.

[Sharmila U. Deshmukh, J.]