



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

902 CRA NO. 112 OF 2025

SHAMSUNDAR DWARKADAS SOMANI

VERSUS

NUTAN TEJPAL SHAH DECEASED THROUGH LRS VINITA NUTAN SHAH
AND OTHERS

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Advocate for the Petitioner : Mr. Bhandari Anand P

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CORAM : SHAILESH P BRAHME, J.

DATE : 02.12.2025

PER COURT :

Heard learned counsel for the applicant.

2. The revision application is directed against order dated 20.01.2025 passed by the Extra Joint District Judge in Civil Misc. Application No. 49/2020 condoning delay of 133 days for readmission of the application by imposing costs of Rs. 10,000/-

3. The learned counsel Mr. Bhandari would vehemently contend that factually incorrect statements have been made by the respondents for condonation of delay. They were aware of the proceedings, which were filed initially in High Court bearing First Appeal No. 803/2007 and failed to prosecute the same. It is submitted that the conduct of the respondents is objectionable and, it was not desirable to condone the delay. It is further submitted that the applicants are awaiting for the decision of the Lower Court and eager to workout the matter but the respondents are protracting the proceedings. It is submitted that the discretion has not been exercised judiciously.

4. Parties were litigating for specific performance of contract. The

applicant/original plaintiff succeeded in Special Civil Suit No. 182/2006 before the Trial Court on 17.03.2007. Thereafter, the respondents have preferred First Appeal No. 803/2007 before the High Court, which was transmitted to the District Court for change in pecuniary jurisdiction. It was registered as Regular Civil Appeal No. 277/2015. It was dismissed for default on 07.08.2019. The respondents preferred application for readmission along with application for condonation of delay on 18.01.2020. By impugned order delay of 133 days has been condoned.

5. The learned counsel for the applicant is right in contending that decree for specific performance of contract was passed long back on 17.03.2007. It cannot be countenanced that the respondents were not aware of the status of the proceedings and unable to attend the same. The lapses on the part of the respondents are apparent but the Trial Court has taken a view that dismissal of the appeal on technicalities would not be in the interest of justice, which cannot be faulted. This Court is also of the view that matter needs to be heard on merits. Already the respondents are saddled with costs of Rs. 10,000/-. I find no illegality or perversity in the impugned order.

6. The Civil Revision Application is dismissed but it is clarified that the Appellate Court shall decide Regular Civil Appeal No. 277/2015 (First Appeal No. 803/2007) within a period of four months from today.

7. Lower Appellate Court shall secure undertaking from the respondents that they would cooperate for expeditious disposal of the appeal immediately after appearance of the parties before the Appellate Court.

(SHAILESH P. BRAHME, J.)

mkd/-