

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

**INTERIM APPLICATION NO. 8185 OF 2024
IN
SECOND APPEAL(ST) NO. 22668 OF 2023**

Dilip Murlidhar Bhatia And Anr. ...Applicants
Versus
Anubhav Anilkumar Aggarwal ...Respondent

Mr. Ashish Gatagat, Karan Bhadoria for Applicants.
Mr. Shadab S. Jan, for Respondent.

CORAM : Advait M. Sethna, J.

DATED : 18 December 2025

P.C.:-

1. Heard learned counsel for the parties. With their assistance, I have perused the Interim Application.
2. Interim Application has been filed for condonation of 147 days delay in filing the Second Appeal. Mr. Ashish Gatagat, learned counsel for the Applicant/Appellant has urged that the Applicant/Appellant is a resident of Bahrain. He has been presented by the Power of Attorney holder in these proceedings who is situated in Ahmedabad. He is flat purchaser who is deprived of the subject flat since 2010. It is in these circumstances that he is constrained to come to Court. He would further submit that the said delay of 147

days is sufficiently explained in paragraph nos.4, 5 and 6 of the application.

3. Per contra, the learned counsel for the Respondent would submit that there is no explanation as to what prevented the Applicant from taking appropriate steps within the stated a period of 60 days. Not just that but from the period from November 2022 to April 2023 also when the delay has been substantial there is absolutely no explanation in the Interim Application to justify said delay. Accordingly, he would submit that this application deserves nothing short of dismissal.

4. Having heard the learned counsel for the parties, I have perused the record. It is true that the delay has to be explained and sufficient cause has to be shown. It is equally true that the issue of delay has to be examined in the facts and circumstances of the particular case. However, a straight jacket formula cannot be applied in such matters. While examining the aspect of delay and the sufficient cause in that regard the Court exercising its discretion, ought to consider whether such delay is deliberate and/or intentional, which is vital in such cases.

5. In my considered view, in the peculiar facts of this case, though the day-today delay may not have been explained but sufficient cause has been shown in the averments made in the interim application. Therefore, merely rejecting the Interim Application on the ground of delay in

the given factual complexion would enure grave and serious prejudice to the Appellant/Applicant. He is a flat purchaser, who has been bonafide pursuing this litigation since 2010.

6. Thus, in the totality of the facts and circumstances and taking a holistic view of the matter, in my view, sufficient cause has been shown by the Applicant to condone the delay. The delay cannot be branded as intentional and/or deliberate much less an attempt to abuse the legal process.

7. In condoning the delay, this Court has not expressed any opinion on merits of the rival contentions of the parties including whether the debt would fall under the category of excluded debt under the provisions of the Insolvency and Bankruptcy Code 2016 or otherwise.

8. The learned counsel for the parties have pointed out that in the order dated 15 December 2025 in paragraph 3 there is an inadvertent reference to the learned counsel for the Respondent though he was not present on that occasion. Accordingly, reference to learned counsel for the Respondents should be deleted therefrom and the order be read accordingly.

9. For the above reasons, this Interim Application is allowed and Disposed of in the above terms. No costs.

(Advait M. Sethna, J)