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

WRIT PETITION NO. 582 OF 2024

Rao and Associate through
Makarand Sathe Partner

... Petitioner

V/s.

Nishith Keshavlal Shroff and Ors.

... Respondents

Mr. Ajit D. Hon for the Petitioner
Ms. Rashmi Jani for Respondent No.1
Mr. Uzair Kazi with Dhanashree Hublikar i/b. YMK Legal for Respondent
Nos. 7 to 9
Ms. G.R. Raghuwanshi, AGP for Respondent No.10

CORAM : ALOK ARADHE, CJ.

DATE : 09 JULY 2025

P.C. :

1. In this Petition under Article 227 of the Constitution of India, the Petitioner has assailed the validity of the order dated 1 December 2023 and 2 December 2023 passed by the City Civil Court, Mumbai in Chamber Summons No. 1281 of 2013, by which Chamber Summons moved by the Petitioner for bringing legal representatives of Defendant No.1 and for addition of Defendant Nos. 4 to 7 as well as for amendment has been rejected on the ground that there is a delay of 3793 days in bringing out the said Chamber Summons.

2. I have heard the learned Counsel for the parties at length.

3. From perusal of the record it is evident that the Petitioner had filed a Civil Suit No. 2271 of 1997 seeking the relief of specific performance of the agreement. In the aforesaid Civil Suit, the Petitioner filed a consolidated application on 3 July 2013 in which a prayer was made for substitution of legal representatives, an application for condonation of delay and amendment was also sought. The learned Judge, vide impugned order dated 1 December 2023 and 2 December 2023 has dismissed the Chamber Summons *inter-alia* on the ground that there is a delay of 3793 days in filing the application for substitution.

4. In the facts and circumstances of the case, in the considered opinion of this Court, in case the learned Judge was of the opinion that the prayer seeking substitution of legal representatives was barred by a limitation, the Plaintiff ought to have been given an opportunity to file an application for condonation of delay as it is well settled in law that a party cannot be penalized for inadvertence on the part of its Counsel. In any case, the learned Judge ought to have appreciated that such an application seeking multiple reliefs was not maintainable.

5. In the peculiar facts and circumstances of the case, the Petitioner is granted the liberty to move appropriate applications before the Trial Court.

Needless to state that it will be open for the Respondents to file their replies to the aforesaid applications and to take all such pleas as are permissible in law. It is further directed that the Trial Court shall decide the aforesaid applications afresh without being influenced by the observations contained in the order dated 1 December 2023 and 2 December 2023. It is made clear that this Court has not expressed any opinion on merits of the Petition and all issues are kept open to be agitated.

6. Accordingly, the Writ Petition is disposed of.

(CHIEF JUSTICE)