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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION (ST) NO. 1218 OF 2024

Rishabh Subhash Talera

Applicant

.. (Orig. Respondent No.1)

Versus

Sumandevi Chandulal Talera and Ors.

.. Respondents

-
- Ms. Kanchan Phatak, Advocate h/for Mr. Nitin P. Deshpande,
Advocate for Applicant.
-

CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 21, 2024.

P.C.:

1. Heard Ms. Phatak, learned Advocate for Applicant.
2. In view of order condoning delay dated 21.02.2024, Civil Revision Application is taken up for hearing. By the present Civil Revision Application exception is taken to the order dated 29.09.2023 by which delay for setting aside the order dated 19.10.2019 stands condoned. The delay was 3 years, 8 months and 23 days, but after giving the benefit of the excluded period from 15.03.2020 to 28.02.2022 as per the order of the Supreme Court in *Suo Moto* Writ Petition No.3 of 2020, the delay stood reduced to 1 year, 8 months and 23 days.
3. The grievance of the Applicant is that the order dated 29.09.2023 was passed without issuing notice to the Applicant, that is

infact the sole grievance and nothing more.

4. The Application filed below Exhibit “1” gave reasons which have been considered by the learned Trial Court and I find no reason to interfere with the discretion exercised by the Trial Court to condone the delay as prayed for by the party. In so far as grievance of the Applicant that notice was not issued is concerned, considering that it is a discretionary remedy exercised by the Trial Court, I do not find substance in maintaining such a grievance and the same is rejected. It is the prerogative and discretion of the learned Trial Court whether to issue notice in a matter like this and Applicant cannot consider it as his statutory right.

5. Considering the submissions and elaborate documentary evidence considered, the learned Trial Court has found it fit to condone the delay in filing the application seeking setting aside of the order dated 19.10.2019.

6. I find no reason to interfere with such a reasoned order and hence order dated 29.09.2023 is upheld. The order is sustained and confirmed. While doing so, the learned Trial Court has also maintained balance of convenience by subjecting the Applicant therein to substantial costs and therefore this is one more reason as to why the said order deserves not to be interfered with.

7. With the above directions, Civil Revision Application is dismissed.

[MILIND N. JADHAV, J.]

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