

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.10676 OF 2024
IN
FIRST APPEAL (ST) NO.18051 OF 2024

M/s.Modi Metals, Mumbai

.... Applicant

V/s.

M/s.Neel Controls Mumbai & Ors.

.... Respondents

Mr.V.H. Narvekar i/b Mr.J.N. Jain, for the Applicant.

Ms.Heena Shah a/w Mr.Palak Ranka, for Respondent Nos.1,3 and 4.

CORAM : SHIVKUMAR DIGE, J.

DATE : 03rd JULY 2025

P.C:-

1. By this Application, the Applicant is seeking condonation of 184 days delay for filing the Appeal.

2. It is contention of the learned counsel for the Applicant that, the Applicant's Summary Suit has been dismissed and he has preferred Appeal against the said order. The learned counsel further submitted that, due to medical emergency and marriage function in the family of the Applicant, the Applicant could not file Appeal within prescribed period. The learned

counsel further submitted that, there was also communication gap between Applicant and his Advocate. The Applicant be given chance to put his side and to challenge impugned order, hence, requested to allow the Application.

3. The learned counsel for the Respondent strongly objected to allow the Application on the ground that, no sufficient explanation given for delay. The medical papers produced on record are after limitation period, as there is no proper explanation of the delay. Hence, requested to reject the Application.

4. She relied on *Pathapati Subba Reddy (Died) by Lrs and Ors V/s. The Special Deputy Collector (LA)*¹

5. I have heard both learned counsel.

6. The Applicant has challenged dismissal of the Summary Suit. There is delay of 184 days.

7. It is contention of the learned counsel for the Applicant that, the said delay was not intentional and due to some medical emergency and family function the delay is caused.

1 Special Leave Petition (Civil) No.31248 of 2018 decided on 08/04/2024 (SCC)

8. In my view, it is settled principal of law the opportunity should be given to the party to put his side. The Suit has been dismissed and he has to challenged by way of this Appeal. The heavy cost would suffice the purpose.

9. I have gone through the case law's cited by the learned counsel for the Respondent. The facts of the cited case are for land acquisition matter. Hence, would not applicable.

10. The application is allowed. The delay is condoned subject to cost of Rs.5,000/- payable to Tata Cancer Hospital, Mumbai.

11. The Appeal be registered.

(SHIVKUMAR DIGE, J.)