



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 13759 OF 2024
IN
FIRST APPEAL NO. 1118 OF 2013

Shapur P. Rao deceased
Zarine Shapur Rao.

...Applicant.

In the matter between :

Shapur P. Rao

...Appellant.

Versus

W.G. Gorge And Allied Industries
Ltd and Others.

...Respondents.

Mr. Sharan Jagtiani, Senior Advocate along with Ms. Rhia Mehta, Ms. Sakshi Kapadia i/b TRD Associates for the Applicant.

Ms. Savita Nangare i/b Law Focus for the Respondent No. 3.

Mr. Harsh Moorjani for Official Liquidator.

Coram : Sharmila U. Deshmukh, J.

Date : January 20, 2025.

P. C. :

1. Interim Application has been preferred by the widow of deceased Appellant, seeking to be brought on record in the First Appeal in place of original Appellant and for condonation of delay of 113 days caused in filing the present Application.

2. Learned Counsel appearing for the Applicant would point out paragraph No. 7 of the Application which sets out explanation for delay of 113 days. He submits that the right to sue survives to the Applicant

and therefore delay may be condoned and Application may be allowed.

3. Learned Counsel appearing for Respondent No.3 submits that the Application does not give sufficient explanation for delay of 113 days.

4. Learned Counsel appearing for the Respondent No.1 – the Official Liquidator does not oppose the Application.

5. First Appeal is of the year 2014 and has been admitted on 25th February 2014. During the pendency of Appeal, the Appellant passed away on 7th March 2024. The Applicant is widow of deceased Appellant and is senior citizen. In paragraph 7 she has stated that her daughter is married and living separately and her son lives abroad. Considering that the Appeal is of the year 2014, it is not uncommon that the heirs may not be aware about the exact stage of Appeal and would take time to contact the Advocate on record for preferring an Application for being impleaded as party to the proceedings. The delay of 113 days is not inordinate unexplained delay which cannot be condoned.

6. In the light of explanation tendered in Application, delay of 113 days is condoned. Interim Application stands allowed. Amendment to be carried out within two weeks from today.

7. List the First Appeal on **3rd February 2025** (Directions).

[Sharmila U. Deshmukh, J.]