

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 14963 OF 2024.

IN

FIRST APPEAL (St.) NO. 21519 OF 2024.

Rajesh Ramsaroop Saraman

...Appellant.

Versus

M/s. The Tata Power Company Ltd.

...Respondent.

Mr. Ashok Mishra for Appellant.

Mr. Samkit Shah i/b Mulla & Mulla and Craigie Blunt and Caroe for Respondent.

Coram : Sharmila U. Deshmukh, J.

Date : 20th February, 2025.

P. C. :

1. Interim Application has been preferred seeking condonation of delay of 520 days caused in preferring the present First Appeal.
2. The First Appeal arises out of the judgment dated 25th January, 2023 filed by the plaintiff seeking compensation of Rs. 16,00,000/- for malicious prosecution along with interest. By the impugned judgment, the suit came to be dismissed.
3. The period of limitation for filing the Appeal is 30 days from the date of judgment and order. In the present case, the Application along with the Appeal has been filed on 27th July, 2024, which is beyond the period of limitation.
4. Learned counsel appearing for Applicant would submit that

Applicant was suffering from viral hepatitis since 12th May, 2023 and could not approach his Advocate to file Appeal and that Applicant is poor person and suffering from financial crisis and thus, there is delay. He would further point out the certificate, which is annexed to the Application, which states that Applicant was under the treatment of Doctor from 12th May, 2023 to 18th June, 2024.

5. Learned counsel appearing for Respondent submits that Applicant has relied upon the medical certificate of Homeopathic Doctor and certificate does not mentions type of treatment given. He submits that there is no explanation, which is tendered for non-filing of the Appeal during the period of limitation and in the absence of any explanation, much less a sufficient explanation, the Application is liable to be dismissed.

6. I have considered the submissions and perused the record.

7. The impugned judgment and order of the City Civil Court is dated 25th January, 2023 and the Appeal had to be filed on or before 24th February, 2023. In the Application, the explanation which has been given for delay of 520 days is that from 12th May, 2023, the Applicant was suffering from viral hepatitis. In support of the said Application, he has relied upon the medical certificate of Homeopathic Doctor, who has merely mentioned that he was under the treatment of Doctor from 12th May, 2023 to 18th June, 2024. It is clear that Applicant was not

admitted to hospital and it is neither shown nor pleaded that Applicant was suffering from an illness which restricted his mobility to that extent that he could not have contacted his advocate to file Appeal. Apart from the said fact, since the Appeal had to be filed on or before 24th February, 2023, the explanation even if tendered is from 12th May, 2023 and there is absolutely no explanation, which has been tendered for delay in not filing the Appeal within a period of limitation. Any explanation, which is tendered for delay beyond limitation period is not sufficient to condone the delay.

8. Learned counsel appearing for Respondent has rightly relied upon the decision of the Apex Court in the case of **Basawaraj v. Land Acquisition Officer¹**, where the Apex Court has held as under :-

“12. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The Court has no power to extend the period of limitation on equitable grounds. “A result flowing from a statutory provision is never an evil. A Court has no power to ignore that provision to relieve what it considers a distress resulting from its operation.” The statutory provision may cause hardship or inconvenience to a particular party but the Court has no choice but to enforce it giving full effect to the same. The legal maxim “*dura lex sed lex*” which means “the law is hard but it is the law”, stands attracted in such a situation. It has consistently been held that, “inconvenience is not” a decisive factor to be considered while interpreting a statute.

15. The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the “sufficient cause” which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or

1 (2013) 14 SCC 81.

for want of *bona fide* on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamount to showing utter disregard to the legislature.

16. In view of above, no interference is required with impugned judgment and order of the High Court. The appeals lack merit and are, accordingly, dismissed.”

9. There is no explanation, given for not filing the Appeal within the period of limitation and the explanation tendered is for the period from 12th May, 2023 till filing of the Appeal based on certificate issued by Homeopathic Doctor which merely states that the Applicant is under treatment. Further, the Application is completely bereft of any details and there is not even an averment therein that due to viral hepatitis, the Applicant was totally immobile during the said period.

10. In light of the above, there is no merit in the Interim Application. Interim Application stands dismissed.

11. In view of dismissal of the Interim Application for condonation of delay, First Appeal does not survive for consideration and the same stands dismissed.

12. In view of dismissal of First Appeal, nothing survives for consideration in the pending Interim/Civil Applications and the same stand disposed of.

[Sharmila U. Deshmukh, J.]