

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.15140 OF 2024
IN
FIRST APPEAL NO.331 OF 1998

Gopal alias Ranjeet Dwarkadas Bedi .. Applicant.

In the matter between

Gopal alias Ranjeet Dwarkadas Bedi .. Appellant.

v/s.

Neil John Creado & Others .. Respondents.

Adv. Rohaan Cama with Adv. Anish Karande i/b. Adv. Aditya Pratap, for
Aditya Pratap Law Offices, for the Applicant/ Appellant.

Adv. Kevic Setalvad, Sr. Advocate i/b. S. S. Nikam with Adv. Sachin T. for
the Respondents.

CORAM: FIRDOSH P. POONIWALLA,J.

DATE : 1st OCTOBER, 2025.

P. C:-

1 This Interim Application has been filed seeking the following

reliefs:-

“(a) That this Hon’ble Court be pleased to condone the delay of 2093 days in filing the present Civil Application for restoration of First Appeal No. 331 of 1998;

(b) That this Hon’ble Court be pleased to set aside the common order dated 24th January 2019 passed by Her Ladyship, Dr. Shalini Phansalkar-Joshi and to restore the First Appeal No. 331 of 1998 to the file of this Hon’ble Court and to adjudicate the same on its own merits.”

2 It is the case of Mr. Cama, the learned Counsel appearing on behalf of the Appellant, that the present Appeal was admitted on 4th May, 1998. Thereafter, by an Order dated 29th January, 2001 passed by this Court, the execution of the impugned Judgement and Decree dated 5th March, 1988 was stayed, subject to certain directions as mentioned in the said Order.

3 Thereafter, by an Order dated 24th November, 2018, three weeks' time was granted to the Appellant for supplying spare copy of judgement and for paying Paper Book charges in the Lower Court.

4 Mr. Cama drew my attention to a letter dated 1st December, 2018 addressed by the Advocate for the Appellant to the Registrar, Appellate Side of this Court. The said letter stated that the Appellant's Advocates had made inquiries before the City Civil Court at Bombay, and they had been informed that the said Court had not received any intimation about the amount of charges that were required to be paid for the Paper Book. By the said letter, the Appellant's Advocates requested the Registrar to inform them about the charges that were required to be paid in the Lower Court and undertook to pay the Paper Book charges with immediate effect.

5 Thereafter, by another letter dated 10th December, 2018 addressed to the Registrar, City Civil Court at Bombay, the Appellant's Advocates stated that they had made inquiries before this Court (Appellate branch) and had been informed that the City Civil Court at Bombay was required to send the Records and Proceedings to this Court and inform the Appellant about the amount of paper charges that were required to be paid.

6 Thereafter, by an Order dated 24th January, 2019 passed by this Court in several First Appeals, which included the present First Appeal, the printing of the Paper Book was dispensed with. The Appellants were directed to supply requisite copies of the Paper Book in accordance with Rule 10 (iii) of Chapter VII, read with Rule I of Chapter IX, of the Bombay High Court (Appellate Side) Rules, 1960. The said Order also provides that the Paper Book should be supplied within eight weeks, failing which the Appeal would stand dismissed for non-prosecution without further reference to the Court. The said Order also provided that the Appellants should remove other office objections, if any, within a period of eight weeks from the date of the said Order, failing which the Appeals would stand dismissed for non-prosecution without further reference to the Court.

7 It is further the case of Mr. Cama that, by a letter dated 29th January, 2019 addressed to the Appellant and his Advocate, the Registrar of the City Civil Court at Bombay informed them that this Court had directed the City Civil Court at Bombay that the Record and Proceedings in the Suit be certified along with four typed photo copies of Roznama and Evidence and that the estimated costs for the preparation of four photocopies of the Paper Book would come to Rs.136/-. Therefore, the Appellant was requested to deposit the same in the office of the Registrar, City Civil Court, Bombay, immediately on receipt of the notice.

8 It is the case of Mr. Cama that the said amount of Rs.136/- was paid by the Appellant on the very same date, i.e. 29th January, 2019, and a receipt of the said payment has been annexed at page 42 of the Interim Application.

9 Further, the Advocates for the Appellant addressed a letter dated 30th January 2019 to the Registrar (Appellate Side) of this Court, informing him that they had paid the Paper Book charges and had complied with the Order dated 24th January, 2018 passed by the Registrar (Judl.II). Further, it was stated that since the paper book charges were already deposited with the City Civil Court, Bombay, the said Court would be sending the Paper Book to the High Court (Appellate Side). The letter

also stated that all objections in the above Appeal are removed.

10 Mr. Cama submitted that, therefore, in light of the aforesaid facts, the Appellant was under the impression that on payment of Rs.136/, the Paper Book would be sent by the City Civil Court, Bombay, to this Court, and, hence, the Appellant did not take any further steps in the matter, especially since the First Appeal had already been admitted and the execution of the decree had been stayed.

11 Further, it is the case of Mr. Cama that it was only when the Appellant received a letter dated 23rd September, 2024 from the Respondent's Advocate stating that the First Appeal had been dismissed by this Court, that they became aware of the dismissal of the First Appeal. The said letter was received by them on 27th September, 2024.

12 Mr. Cama submitted that, in these circumstances, the Appellant filed the present Interim Application on 25th October, 2024.

13 Mr. Cama submitted that, in these circumstances, since the Appellant was under the bonafide impression that the Paper Book had been sent to this Court by the City Civil Court, Bombay, the Interim Application should be allowed.

14 Mr. Setalvad, the learned Senior Advocate appearing on behalf of the Respondents, referred to Rule 10 (iii) of Chapter VII of Bombay High Court (Appellate Side) Rules, 1960, as well as Rule 1 of Chapter IX and Rules 3, 5, 9 of Chapter V of the Said Rules. Based on these Rules, Mr. Setalvad submitted that, since the printing of the Paper Book had been dispensed with, it was the duty of the Appellant to supply the Paper Book. He also submitted that the Order dated 24th January, 2019 also made it clear that the Paper Book was to be supplied by the Appellant and that the Appellant had to remove other office objections, failing which, the Appeal would stand dismissed without further reference to the Court.

15 It is the submission of Mr. Setalvad that the Appellant could not have just paid Rs.136/- and presumed that the City Civil Court, Bombay, would supply the Paper Book to the High Court. Mr. Setalvad submitted that the said presumption was contrary to the aforesaid Rules cited herein above. Mr. Setalvad further submitted that the Order dated 24th January, 2019 also required the Appellant to remove all office objections, and, therefore, the Appellant should have enquired about the office objections, which he failed to do so.

16 Mr. Setalvad submitted that, in these circumstances, this Interim Application should be dismissed.

17 In support of his submission, Mr. Setalvad relied upon the judgement of the Hon'ble Supreme Court in the case of ***Basawaraj & Another v/s. Special Land Acquisition Officer, (2013) 14 SCC 81.***

18 He submitted, on the basis of the said judgement, that where there is any negligence, inaction or lack of bonafides, then the delay should not be condoned and it cannot be said that there is sufficient cause for condonation of delay.

19 I have heard the learned Counsel for the parties and perused the documents on record. In my view, Mr. Cama is right in submitting that, in view of the actions taken by the Appellant (which are set out hereinabove), the Appellant was under the bonafide impression that the Paper Book would be supplied by the City Civil Court, Bombay, to this Court, and, therefore, he did not take any further action in the matter.

20 As far as the submissions of Mr. Setalvad are concerned, I am unable to accept that there was any lack of bonafides on the part of the Appellant, even presuming that the Appellant had to supply the Paper Book as submitted by Mr. Setalvad by relying upon the aforesaid Rules.

21 The narration of events clearly shows that the Appellant was under the bonafide impression that the Paper Book had to be supplied by the City Civil Court, Bombay to this Court.

22 As far as the judgement in **Basawaraj (supra)** is concerned, paragraphs 9, 10, 11 and 12 of the same are relevant and are set out herein below:-

“9. Sufficient cause is the cause for which the defendant could not be blamed for his absence. The meaning of the word "sufficient" is "adequate" or "enough", inasmuch as may be necessary to answer the purpose intended. Therefore, the word "sufficient" embraces no more than that which provides a platitude, which when the act done suffices to accomplish the purpose intended in the facts and circumstances existing in a case, duly examined from the viewpoint of a reasonable standard of a cautious man. In this a context, "sufficient cause" means that the party should not have acted in a negligent manner or there was a want of bona fide on its part in view of the facts and circumstances of a case or it cannot be alleged that the party has "not acted diligently" or "remained inactive". However, the facts and circumstances of each case must afford sufficient ground to enable the court concerned to exercise discretion for the reason that whenever the court exercises discretion, it has to be exercised judiciously. The applicant must satisfy the court that he was prevented by any "sufficient cause" from prosecuting his case, and unless a satisfactory explanation is furnished, the court should not allow the application for condonation of delay. The court has to examine whether the mistake is bona fide or was merely a device to cover an ulterior purpose. (See Manindra Land and Building Corpn. Ltd. v. Bhutnath Banerjee, Mata Din v. A. Narayanan, Parimal v. Veena and Maniben Devraj Shah v. Municipal Corpn. of Brihan Mumbai.)

10. In *Arjun Singh v. Mohindra Kumar* this Court explained the difference between a "good cause" and a "sufficient cause" and observed that every "sufficient cause" is a good cause and vice versa. However, if any difference exists it can only be that the requirement of good cause is complied with on a lesser degree of proof than that of "sufficient cause".

11. The expression "sufficient cause" should be given a liberal interpretation to ensure that substantial justice is done, but only so long as negligence, inaction or lack of bona fides cannot be imputed to the party concerned, whether or not sufficient cause has been furnished, can be decided on the facts of a particular case and no straitjacket formula is possible. (*Vide Madanlal v. Shyamlaṭii and Ram Nath Sao v. Gobardhan Sao.*)

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."

23 From the reading of the said judgement, it is very clear that, as per the Hon'ble Supreme Court, sufficient cause means that the party should not have acted in a negligent manner, or there was a want of bona fide on its part in view of the facts and circumstances of a case, or it

cannot be alleged that the party has not acted diligently or remained inactive.

24 As held by me hereinabove, the actions taken by the Appellant clearly show that the Appellant was under the bonafide impression that the Paper Book had to be supplied by the City Civil Court, Bombay to this Court. In these circumstances, the Appellant did not take any further action and was not aware of the dismissal of the Appeal. In fact, when the dismissal was brought to the knowledge of the Appellant by the Advocate for the Respondents, he came to know about the dismissal of the Appeal. Hence, in my view, the Appellant has acted in a bonafide manner and shown sufficient cause for granting the reliefs sought in the Interim Application.

25 For all the aforesaid reasons, the Interim Application is allowed in terms of prayer clause (a) and prayer clause (b) to the extent that it applies to First Appeal No. 331 of 1998 filed by the Appellant.

26 Ad-interim relief granted by an Order dated 29th January, 2021 stands revived.

27 In the facts and circumstances of the case, there will be no order as to costs.

28 Now that the Appeal is restored to the file, if there are any other office objections, the Appellant shall remove the same within a period of eight weeks from today, failing which the Appeal will stand dismissed without further reference to the Court.

(FIRDOSH P. POONIWALLA,J.)