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Duration	Years	Months	Days
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IN THE COURT OF SMALL CAUSES, MUMBAI

MARJI APPLICATION NO. 154 OF 2024

CNR – MHSCA10005282024

IN

CIVIL REVISION APPLICATION NO. OF 2024

IN

EXHIBIT NO. 40

IN

L.E. & C. SUIT NO. 57 of 2015

Exhibit – 13/A

Applicants (Original Defendants no. 1 and 2):	
1.	Parmeshwari Sales And Services Private Limited A Company registered under the provisions of the Companies Act, 1956 having its address at Sanghrajka House, 431, Lamington Road, Opera House, Mumbai-400 004. Through its Director Applicant no. 2 Mob.No. 9820060660
2.	Mr. Jasmeet Singh Chandok Age – 58 years, Occupation – Business, Having their registered office at Sanghrajka House, 431, Lamington Road, Opera House, Mumbai-400 004. Mob.No. 9820060660
Versus	
Respondent (Original Plaintiffs no. 1 and 2, and Defendant no. 3):	
1.	Mr. Janardhan Sudam Mankar, Age – 47 years, Occupation – Business,

	Having his residence at 701 – H Orchid Gundecha’s Valley of Flowers, Thakur Village, Kandivali (E), Mumbai-400 101.
2.	Mr. Vilas Sudam Mankar, Age – 35 years, Occupation – Business, Having his residence at 207, Skyflama, B-Wing, Disti Flamingo Complex, T. J. Road, Sewri, Mumbai-400 015.
3.	Mr. Prabhakar Sudam Mankar, Age – 41 years, Occupation – Business, Having his office at Room no. 1, New Sampat Chawl no. 4, Bandrekar Wadi, Near Siddhivinayak Temple, Jogeshwari (East), Mumbai-400 060, And Aparna Niwas, Above GB Chavan Stamp Vendor, Opp. Mangaon Tehsil Office, Taluka – Mangaon, District – Raigad, Maharashtra – 402 104.
Appearances (learned Advocates appearing in the matter)	
For Applicants	Mr. Saurabh Chitnis i/b. Mr. Arun C. Panickar
For Respondents	Mr. Kunal Vora

**Coram : Girish G. Bhalchandra,
Additional Chief Judge
And
Amolkumar A. Deshpande, Judge
Court Room No.2**

JUDGMENT

(Per Amolkumar A. Deshpande, Judge)

[Delivered today on 12th December 2024]

1. By this application, the applicant is praying for condonation of delay in filing revision application against order. This application is seriously objected by the respondents.

Contentions in the application:

2. On 11th January 2024, the learned Trial Court rejected application at Exhibit 40 in L. E. C. Suit no. 57 of 2015. Applicants intended to challenge the said order in revision. However applicant no. 2 was not keeping well and was hospitalized from 1st December, 2023 till 3rd December 2023. His father was in the Intensive Care Unit from 3rd January, 2024 to 15th January, 2024. Ultimately father of applicant no. 2 died on 17th January, 2024. Thereafter applicant no. 2 was busy in the rites and rituals after death of his father. Applicants applied for certified copy of the impugned order on 23rd January 2024. The copy was made available on 25th January 2024. There is a delay of 02 days in filing the revision application.
3. The delay is not deliberate nor intentional. No prejudice would be caused to the respondents if the delay is condoned. But if the delay is not condoned, applicants will be deprived from challenging the said order. The delay is not inordinate and it be condoned for such reasons and in the interest of justice. So it is prayed that the delay be condoned.

Contentions in reply at Exhibit 12:

4. The application is false, furious and vexatious. It is not maintainable in law. Applicant had enough time to file the revision from the date of order as the period is 90 days. The delay is wrongly calculated and it should be of 10 days and not of 2 days. Applicants are occupying the suit premises free of cost and without paying anything or without complying the orders of learned Trial Court. Conduct of applicants proved that the delay is intentional and deliberate. No ground is made out for condonation of delay. Applicants are in habit of assailing orders passed in the suit after stipulated time. It is modus of the applicants to cause further delay in hearing. So the application be dismissed with compensatory costs.
5. Respondent no. 3 did not appear and therefore, the matter was heard exparte against him.

Hearing of the application:

6. Learned Advocate Mr. Saurabh Chitnis [i/b. Learned Advocate Mr. Arun Panickar] argued on behalf of the applicants, whereas learned Advocate Mr. Kunal Vora argued on behalf of respondents no. 1 and 2.

Points to be determined:

7. The following points must be answered to dispose this matters. The decisions are recorded today, bearing upon the material on record and impact of submissions.

Sr. No.	Points	Decisions
1.	Whether applicants have made out sufficient cause to condone delay?	Yes
2.	What Order?	As Per Operative Order

REASONS

As to Point No. 1:

8. It must be reiterated that the application at Exhibit 40 was rejected by the learned Trial Court on 11th January, 2024. It can also be seen from the certified copy on record that the record was given on 23rd January, 2024 and the copy was delivered on 25th January, 2024. It is also matter of record that the present MARJI Application was affirmed on 22nd March, 2024, but it was presented on 16th April, 2024. So if calculated properly, the delay is merely of 2 days and not as of 10 days, which respondents no.1 and 2 contended.
9. Now the question is, as to whether sufficient cause is being shown to justify such delay. The annexures show that late Mr. Rajinder Singh Sardar Singh Chandok (father of applicant no. 2) died on 17th January, 2024 i.e. within a week from the date of impugned order. So it is obvious that the applicant no. 2 was engrossed in the post death rituals of his father. In the circumstances, it is not expected that the applicant no. 2 shall come to the Court to challenge a particular order instead of fulfilling

the religious duties. Learned Advocate Mr. Vora tried to highlight that the applicants are occupying the suit premises without paying anything. However, that cannot be a ground while considering the aspect of condonation of delay. The delay of 02 days is certainly meager and it is also properly explained. Therefore, we are of the view that the delay must be condoned as sufficient cause is been shown. Hence, the Point no. 1 is decided as 'Yes'.

10. So the upcoming order becomes necessary, in which we are of the view that no cost is to be imposed in the circumstances.

OPERATIVE ORDER

1. Application bearing MARJI no. 153 of 2024 is allowed.
2. The delay of 02 days in filing the revision against order below Exhibit 40 in L.E. & C. Suit no. 57 of 2015, dt. 11th January, 2024, is hereby condoned.
3. Costs is not imposed while condoning such delay.

I agree

(Girish G. Bhalchandra)
Additional Chief Judge,
Court Room no. 02

(Amolkumar A. Deshpande)
Judge,
Court Room no. 02

Judgment Dictated on : 12.12.2024
Judgment Transcribed on : 20.12.2024
Judgment Checked & Signed on : 20.12.2024