



CNR No.MHSCA10006192022

**IN THE COURT OF SMALL CAUSES AT MUMBAI
(APPELLATE COURT)**

MARJI APPLICATION NO. 224 OF 2022

IN

EXHIBIT 10 & 19

IN

LE & C SUIT NO. 57 OF 2015

1. M/s. Parmeswri Sale and Services ...Applicants
Private Limited & another

Versus

1. Mr. Janardhan Sudam Mankar and others ...Respondents

Advocates appeared :

Shri. Arun C. Panickar, Advocate for Applicants.

Smt. Vimla R. Vora, Advocate for the respondent Nos.1 & 2

Smt. Varsha Kekane, Advocate for the respondent No.3

**Coram : M. S. Pathan,
Addl. Chief Judge
&
J.S. Jagdale, Judge
C.R. No.4
Date : 13th October, 2022**

O R A L O R D E R

(Per M. S. Pathan, Addl. Chief Judge)

1. The applicants have taken out this application to condone the delay of 68 days caused in filing the appeal. According to them, they are challenging the orders passed below exhibits 10 & 19 by the learned trial Judge of C.R.No.14. The said orders were

passed on 07.04.2022. They have applied for the certified copy of impugned order on 08.04.2022. The certified copies were received to them on 21.04.2022. However, their advocate was found travelling in between 07.05.2022 to 02.06.2022 and, therefore, the delay of around 68 days have been caused prefer appeal. It is further submitted that, the applicant was also asked to take rest as he was suffering with cardiac problem. During the same period, he equally suffered with knee problem. He has also underwent a surgery on 04.07.2022 and, therefore, he could not come in time and prefer the appeal, for the said delay be condoned.

2. Say of the respondent Nos. 1 & 2 was called. They have filed their say and stiffly opposed to it with a saying that, there are no justifiable grounds mentioned in the application. The grounds mentioned are very baseless and, there is no documentary proof in support of it. Therefore, the application is liable to be rejected. Respondent No.3 has also given her written say and left to the discretion of the court.

3. Heard both sides. Perused the record. No doubt, vide order below exhibit 10 & 19, the applicants were asked to pay licence fees from November 2014 to September 2015 amounting to Rs. 13,60,172/-. Besides this, the applicants were also asked to pay Rs. 1,07,000/- p.m. under Order XVA of the Code of Civil Procedure towards licence fees. However, record reveals that, none of the amount is been paid by the applicants. True, in delay condonation application, we are mainly concerned with the grounds mentioned by the applicants for causation of delay. The application clearly reveals that, the applicant was suffering from cardiac and knee problems. He

had also underwent surgery on 04.07.2022. Moreover, it is contended that, for around a month his lawyer was not available for consultation. Therefore, considering all these facts, it is submitted that, delay has to be condoned. True, no documentary evidence in support of the medical urge are placed on record. However, considering the submission of applicant that, there are some debatable questions to be adjudicated upon vide order passed below exhibits 10 & 19 by the learned trial Judge, for an opportunity should not be denied to them to take chance before this court as well. But, it has to be after all with certain costs. It is apparent that, the applicants have not paid a single paise towards the licence fees. Again, the arrears of more than 10 lakhs are pending. These are not the bonafides of applicant and, therefore, to meet the very ends of justice, we find that, following order would take care of situation. In view of this, we proceed to pass following order.

ORDER

1. The MARJI Application is allowed subject to costs of Rs.10,000/- to be paid to the respondent within a week.
2. The Appeal be registered and placed for further orders accordingly.
3. Both parties to take note.

I agree

(J.S. Jagdale)
Judge
Court Room No.4.
Dt.13.10.2022

(M.S. Pathan)
Additional Chief Judge
Court Room No.4.
Dt. 13.10.2022

