

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL (ST) NO. 23223 OF 2024

Akashdeep Agarwal, Director Proprietor Ashtvinayak
Hospital & Anr.

...Appellants

Vs.

Smt. Tarabai Sampat Waghmare & Ors.

...Respondents

WITH
INTERIM APPLICATION NO. 13412 OF 2024
WITH
INTERIM APPLICATION NO. 13372 OF 2024
WITH
INTERIM APPLICATION NO. 13371 OF 2024

Mr. Pratap Sampat a/w Bharti S. Suvarna i/by Aarti S. Suvarna for the Appellants.
Ms. Kavita Anchan for Respondent Nos.1 and 3.

CORAM : ARIF S. DOCTOR, J.

DATE : 4TH DECEMBER, 2024

P.C.:-

1. The captioned First Appeal impugns an order dated 29th November, 2018.

2. The captioned Interim Application No.13371 of 2024 seeks condonation of delay of a period of 49 days in filing of the captioned First Appeal.

3. Ms. Anchan, Learned Counsel appearing on behalf of Respondent Nos.1 and 3 raises a preliminary objection to the computation of the period of 49 days. She points out that the Appellant had initially filed a Writ Petition being Writ Petition No.8664 of 2019, by which the Appellants had sought to impugn the very same order which is now challenged in the First Appeal. She submits that this Court had then vide an order dated 23rd April, 2024 disposed of the said Writ Petition by granting the Appellants liberty to file the present First Appeal. She submits that the Appellants however instead of filing the present First Appeal, had thereafter on 1st July, 2024 filed an another Writ Petition in this Court which Writ Petition came to be disposed of vide an order dated 22nd July, 2024. She submits that the Appellants have also thereafter filed a review against the order of dismissal. She then took pains to point out that the Appellants had not computed the period of 49 days from the order dated 23rd April, 2024, but had computed it from a subsequent date. She points out that the period of limitation for filing of an Appeal under Section 30 of the Employees Compensation Act 1923, under which the present Appeal is filed, is 60 days. She therefore submits that the delay is in fact over a period of 120 days from the date on which Writ Petition No.8664 of 2019 came to be disposed of and by which order the Appellants were granted liberty to file the present First Appeal. She submits that absent a proper explanation to this effect by the Applicants, the application for condonation of delay cannot be allowed.

4. Having due regard to the submissions made, I am satisfied that the period of delay has not been properly computed. The Applicants are given one more opportunity to properly compute the period of delay and explain the same.

5. Stand over to 18th December, 2024.

(ARIF S. DOCTOR, J.)