

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.859 OF 2014  
IN  
APPEAL FROM ORDER (ST) NO.16872 OF 2014**

Smt.Vinodhini Bhaskar Puthran .. Applicant

Vs.

The Standard Chartered Bank .. Respondent

Mr.M.V.Holamagi for the applicant

**CORAM : K.K.TATED, J.  
DATED : 31/07/2014**

**PC:**

1 Heard the learned counsel for the applicant.

2 This application is preferred by org.plaintiff for condonation of 272 days delay in filing Appeal from Order challenging the order dated 12<sup>th</sup> August, 2013 passed by Bombay City Civil Court at Bombay in S.C.Suit No.1721 of 2012 holding that City Civil Court has no jurisdiction to try the instant suit in view of Section 34 of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, and plaint is returned to the applicant org.plaintiff for presentation before the competent authority.

3 The learned counsel for the applicant submits that since there were personal difficulties of the applicant, the matter could not be attended and as there was death in the family and that the total family was in tension, the Appeal could not be filed in time. These grounds are taken by the applicant in paragraph 1 and 2 of the Civil Application which reads thus:

“1) The petitioner states that since there was personal difficulties the matter could not be attended to and as there was death in the family and the total family was in tension and therefore, the Appeal could not be filed within time and the Petitioner regrets and humbly prays that the delay in filing the Appeal of ..... days may be condoned and the Appeal be accepted and allowed as there are good grounds to succeed in the Appeal. Hence, the Civil Application be allowed.

2) The Petitioner has not filed any other Application in this Hon'ble Court or in the Hon'ble Supreme Court of India with regard to the present cause of action.”

4 The learned counsel for the applicant further submits that applicant has good chance of success in the present proceedings. He submits that in the interest of justice, this honourable court be pleased to condone the delay and matter be heard on its own merits.

He submits that if delay is not condoned, irreparable loss and injury will be caused to the applicant.

5 I have heard the learned counsel for the applicant at length. In the present proceedings, the trial court passed order on 12.8.2013 holding that City Civil Court has no jurisdiction to try S.C.Suit No.1721 of 2012 under section 34 of said Act. The applicant applied for certified copy on 16.8.2013 and same were collected by the applicant on 23.9.2013. Though the Civil Application was affirmed on 4.4.2014, the applicant filed Appeal from Order in this court on 26.6.2014. There is no date given by the applicant in the Civil Application when there was death in her family. There is no explanation given by the applicant for delay of more than 8 months to file the Appeal from Order when certified copies were collected on 23.9.2013.

6 Our High Court in the matter of **Laxman Divekar Vs. State of Maharashtra 1998 (1) Mh.L.J 745** held that Court has no power to arbitrarily condone the delay in the name of advancing substantial justice.

7 The Apex Court in the matter of **Damodar Pillai Vs. South Indian Bank Ltd, 2005(5) All.M.R. 961 (SC)** held that hardship or injustice is not a ground for extending the period of limitation.

8 The Apex Court in the matter of **Pundlik Jalam Patil Vs.**

**Ex.Engg. Jalgaon Medium Project and Ors, 2008(6) BCR 513** held that unless and until sufficient cause is shown, inordinate delay should not be condoned.

9           The Apex Court in the matter of **Oriental Aroma Chemical Industries Limited Vs. Gujarat Industrial Development Corporation** reported in 2010 (5) SCC 459, held that in the absence of sufficient cause, Court should not condone the delay.

10           The Apex Court in the case of **B. Madhuri Gaud Vs. B. Damodar Reddy, 2012 (12) SCC 693** held that if sufficient cause is not shown, delay should not be condoned.

11           Recently, the Apex Court in the matter of **Esha Bhattacharjee Vs. Managing Committee of Raghunathpur Nafar Academy 2013(12) S.C 450** held that if sufficient cause is not shown, application for condonation of delay be rejected.

12    Considering the averments made in Civil Application and the law laid down by the Apex Court, I do not find any reason to entertain the present Civil Application. Hence, same is rejected.

13    In view thereof, Appeal from Order (ST) No.16872 of 2014 and Civil Application (ST) No.16875 of 2014 do not survive. Hence, registration of Appeal from Order as well as Civil Application stands rejected.

**(K.K.TATED, J.)**