

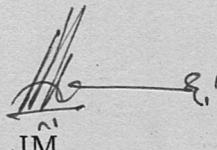
**26.02.2008**  
**Hon'ble Mr. Ashok S. Karamadi, JM**

Sri J. Kumar learned counsel for the applicant.

**MA No. 2310/07** has been filed by the applicant for recalling order dated 13.02.2007. Learned counsel based on the affidavit for the same submits that the said order was passed for non prosecution on 13.02.2007. But in the affidavit it is stated since there is no communication between the applicant and his earlier counsel and on enquiry he came to know about dismissal of the OA and, therefore, he filed this MA after he came to know from the counsel who filed this MA for recalling. He further states that he is in financial difficulty and he is 75 years old man. For this reason he has sought for recalling the order. Further in paragraph 6 it is stated that for the same reason the delay may be condoned for recalling order.

Having heard the applicant's counsel and perused the affidavit filed in support of the same I do not find any justification to condone the delay in filing MA for recalling the order. In view of the fact that there is nothing on record to show to accept the submission of the applicant that he has approached the earlier counsel and he has no communication from the earlier counsel on record. He has never stated that he has approached the earlier counsel prior enquiring the same with regard to this OA. Before enquiring the matter through counsel who has filed this MA. In the absence of any explanation for the same for non contacting the earlier counsel on record to whom he has entrusted earlier clearly goes to show that he has no bonafide intention to prosecute the case. Having regard the same in view of the contention of the applicant I do not find any justifiable ground to condone the delay and also to accept his explanation with regard to the same.

In view of foregoing reasons and also there no delay condonation application is filed alongwith recall application. The grounds taken in paragraph 6 with regard to delay condonation is taken note and I have come to the conclusion that there is no justification and sufficient ground is made out for condoning the delay. Accordingly the MA 2310/07 for recalling the same is dismissed.



JM

/pc/