

Memorandum of Grounds of Civil Appeal Filed U/S 96 OF CPC)

**IN THE COURT OF THE HON'BLE I ADDITIONAL CHIEF
JUDGE, CITY CIVIL COURT, AT: SECUNDERABAD**

A.S.No. of 2023

Between:

M/s. B & C Estates
A partnership firm,
Represented by its Managing Partner
Sri. Soham Modi S/o. Late Sri. Satish Modi,
aged about 53 years, having its office at
5-4-187/3 & 4, IInd Floor, Soham Mansion,
M.G.Road, Secunderabad-500003.

..Appellant

AND

The Branch Manager,
HDFC Bank Limited,
Ground Floor, Usha Kiran Complex,
S D. Road, Secunderabad.

...Respondent

**IN THE COURT OF THE HON'BLE I JUNIOR CIVIL JUDGE,
CITY CIVIL COURT, AT:SECUNDERABAD**

O.S.No. 1082 of 2021

Between:

M/s. B & C Estates
A partnership firm,
Represented by its Managing Partner
Sri. Soham Modi S/o. Late Sri. Satish Modi,
aged about 53 years, having its office at
5-4-187/3 & 4, IInd Floor, Soham Mansion,
M.G.Road,Secunderabad-500003.

..Plaintiffs

And

HDFC Bank Limited,
A partnership firm,
Represented by its Branch Manager

... Defendant

For B&C ESTATES
Partner

1. THE DESCRIPTION AND ADDRESS OF THE APPELLANTS : The same as shown in the cause title supra and for the purpose of service notices, etc is that of its counsel Sri. P. Vikram Kumar, J. Gangadhar, Sreekanth P.B. Advocate, 24, Ravi Cooperative Housing Society Lt., Trimulgherry, Secunderabad-500015.

2. THE DESCRIPTION & ADDRESS OF THE RESPONDENTS: The same as shown in the cause title supra.

The Appellant/Plaintiff Aggrieved by the Judgement and Decree of the Hon'ble Court of the I Junior Civil Judge, City Civil Court, Secunderabad, dismissing the suit in OS.No.1082 of 2021 vide judgment and decree dated 27.03.2023, the copy of which was applied on 04.04.2023 and the same was made ready on 08.06.2023, this Appeal is preferred along with application seeking condone of the delay in filing the appeal on the following among other

GROUND OF APPEAL

1. The judgement and decree of the court below is against law and probabilities of the case and against the weight of evidence.
2. The judgement of the court below is purely based on surmises and assumptions and presumptions and not on the evidence on record.
3. The court below failed to understand the actual crux of the case and the subtle aspects involved in the case and also failed to or refused to appreciate the evidence filed by the Appellant/Plaintiff.
4. The court failed to see that the allegations in the plaint that the plaintiff had provided the original Fixed Deposit 021GT02132630001 by

For BSC ESTATES
Partner

way of specific lien to enable the defendant to provide guarantee to the GHMC Hyderabad for an amount of Rs. 9,25,000/- vide bank guarantee No.021GT02132630001 dated 20.09.2013 and also alleged that the bank guarantee was valid up to 04.09.2018. The court below failed to see that the specific statements/pleadings in the plaint was not contradicted by the defendant by filling a written statement or at least by cross examining PW1.

5. The court below failed to see that the admitted facts need not be provided and instant wrongly found fault that the plaintiff did not file any document to prove that the defendant has provided bank guarantee on the basis of fixed deposit receipt of Rs. 9,25,000/- kept for the purpose of security.

6. The court below ought to have decreed the suit on the basis of uncontroverted statements.

7. The other grounds will be urged at the time of hearing.

VALUATION: The suit in the court below was valued as follows:

For recovery of money of Rs.9,25,000/- and a court fee of Rs._____ /- was paid by the plaintiff under section 20 of the TS CF &SV Act and the appeal is valued as such under section 49 of the TSCF&SV Act and a court fee of Rs._____/ - is paid which is proper and correct.

For B&C ESTATES
Partner

PRAYER:- On the above said grounds and other grounds that might be urge at the time of hearing, it is prayed that the appeal may be allowed by setting aside the judgment and decree of the trial court in O.S.No.1082 of 2021 on the file of the Hon'ble Ist Junior Civil Judge, Secunderabad and decree the suit with costs through out in the interest of justice and pass such other order/s as deemed fit and proper in the circumstances of the case.

Date: .12.2023
Secunderabad

Counsel for the Appellant

IN THE COURT OF THE I ADDITIONAL CHIEF
JUDGE, CITY CIVIL COURT,
AT: SECUNDERABAD

A.S.No. of 2023

Between:

M/s. B & C Estates

A partnership firm,

Rep by its Managing Partner

.....Plaintiff

And

HDFC Bank Limited,

A partnership firm,

Represented by its Branch Manager

.. Defendant

Memorandum of Civil Appeal filed U/S 96 CPC

Filed on: .12.2023

Filed by Counsel for the Appellant

P.Vikram Kumar,

J. Gangadhar,

Sreekanth P.B

Address for Service

24, Ravi Cooperative Housing Society Lt
Trimulgherry, Secunderabad-500015.

IN THE COURT OF THE I ADDITIONAL CHIEF JUDGE, CITY
CIVIL COURT, AT: SECUNDERABAD

I.A.No. of 2023

In

A.S.No. of 2023

Between:

M/s. B & C Estates a partnership firm,
Represented by its Managing Partner

...Petitioner/Appellant

And

HDFC Bank Limited,
A partnership firm,
Represented by its Branch Manager

.. Respondent/Respondent

AFFDAVIT

I, Sri. Soham Modi S/o. Late Sri. Satish Modi, aged about 53 years
having its office at 5-4-187/3 & 4, IInd Floor, Soham Mansion, M.G.Road,
Secunderabad-500003, do hereby solemnly affirm and state as under:

1. I humbly submit that I am the Managing Partner for the appellant herein and as such am well acquainted with the facts deposed hereunder.
2. I humbly submit that the suit was dismissed on 27.03.2023 and we were not informed by our advocate about the dismissal of the suit. I humbly submit that we could not contact our lawyer to know about the details about the case as the partners of the applicant all suffering from different ailments and also on account of pressing business commitments. I humbly submit that we enquired in the month of July about the fate of the case and we were informed that the suit was dismissed by the court below on 27.03.2023 and that our advocate had applied for a copy of the same and that he had misplaced the file in his office and will hand over the file and certified copy of the judgment and decree as soon as he


FOR B & C ESTATES
Partner

traces it and after the much efforts and much pursuit, the file and the certified copies were handed over by our previous counsel to us on 03.12.2023 and we engaged our present lawyer to file the appeal. I submit that on account of the misplacement of the file and certified copies by our previous lawyer, a delay of 163 days on filing the appeal occurred which is neither willful nor wanton but due to the above said reason and it is just and necessary that the same may be condoned in the interest of justice.

3. I therefore pray that this Honorable court be condone the delay of ____ days in filing the appeal in interest of Justice and pass such other order or orders as deemed fit and proper in the circumstances of the case.

Solemnly affirm and stated in my
Presence on this ____th day of December,
2023, At Secunderabad

For B&C ESTATES
Partner
DEPONENT

Advocate/Hyderabad

IN THE COURT OF THE I ADDITIONAL CHIEF JUDGE, CITY
CIVIL COURT, AT: SECUNDERABAD

I.A.No. of 2023
In
A.S.No. of 2023

Between:

M/s. B & C Estates
A partnership firm,
Represented by its Managing Partner
Sri. Soham Modi S/o. Late Sri. Satish Modi,
aged about, having its office at
5-4-187/3 & 4, IInd Floor, Soham Mansion,
M.G.Road, Secunderabad-500003.

... Petitioner/Appellant

AND

The Branch Manager,
HDFC Bank Limited,
Ground Floor, Usha Kiran Complex,
S D. Road, Secunderabad.

...Respondents/Respondents

PETITION FILED UNDER SECTION 5 OF THE LIMITATION ACT, 1963

For the reasons stated in the accompanying affidavit it is prayed that this Honorable court may be pleased to condone the delay of ____ days in filing the appeal in interest of Justice and pass such other order or orders as deemed fit and proper circumstance of the case.

Dated: .12.2023
Place :Secunderabad

Counsel for the petitioner

In the Court of the I Additional Chief Judge,
IN THE COURT OF THE I ADDITIONAL CHIEF
JUDGE, CITY CIVIL COURT,
AT: SECUNDERABAD

A.S.No. of 2023

Between:

M/s. B & C Estates
A partnership firm,
Rep by its Managing Partner

.....Plaintiff

And

HDFC Bank Limited,
A partnership firm,
Represented by its Branch Manager
.. Defendant

PETITION FILED UNDER SECTION 5 OF
THE LIMITATION ACT, 1963

Filed on: .12.2023

Filed by Counsel for the Appellant

P.Vikram Kumar,
J. Gangadhar,
Sreekanth P.B

Address for Service

24, Ravi Cooperative Housing Society
Trimulgherry, Secunderabad-500015.

IN THE COURT OF THE I ADDITIONAL CHIEF JUDGE, CITY
CIVIL COURT,
AT: SECUNDERABAD

A.S.No. of 2023

Between:

M/s. B & C Estates, partnership firm,
Represented by its Managing Partner

..Appellant/Plaintiff

And

HDFC Bank Limited,
A partnership firm,
Represented by its Branch Manager

.. Defendant

I, Sri. Soham Modi S/o. Late Sri. Satish Modi, aged about not known, having its office at 5-4-187/3 & 4, IInd Floor, Soham Mansion, M.G.Road, Secunderabad-500003,,do hereby solemnly affirm and state as under:-

P.Vikram Kumar,
J. Gangadhar, Sreekanth P.B

ADVOCATES

Advocate/s to appear for me/us in the above Suit/Appeal/Petition/Case and to conduct and prosecute or defend the same and all proceedings that may be taken in respect of any application for execution of any decree or order passed therein. I/We empower my/our Advocate/s to appear in all miscellaneous proceedings in the above suit or matter till all decrees or order are fully satisfied, or adjusted, to compromise and obtain the return of documents and draw any money that might be payable to me/us in the said suit or matter and I/We do further empower my/our Advocate/s to accept on my/our behalf service of notice of all or any appeal or petition filed in any court or appeal Reference or Revision with regard to the said suit or matter before disposal of the same in Honourable Court.



I certified that the executant who is well acquainted with English, read this Vakalatnama that the contents of this Vakalatnama were read out and explained in Urdu/Hindi/Telugu to the executant he/she/they being unacquainted with English, who appeared perfectly to understand the same and signed or put his/her/their name or mark in my presence.

Identified by Sri. _____

Executed on ___ 12-2023

ADVOCATE

IN THE COURT OF THE I ADDITIONAL CHIEF
JUDGE, CITY CIVIL COURT,
AT: SECUNDERABAD

A.S.No. of 2023

Between:

M/s. B & C Estates
A partnership firm,
Rep by its Managing Partner

.....Plaintiff

And

HDFC Bank Limited,
A partnership firm,
Represented by its Branch Manager
.. Defendant

VAKALAT

Filed on: .12.2023

Filed by Counsel for the Appellant

P.Vikram Kumar,
J. Gangadhar,
Sreekanth P.B

Address for Service

24, Ravi Cooperative Housing Society Lt
Trimulgherry, Secunderabad-500015.

IN THE COURT OF THE I ADDITIONAL CHIEF JUDGE, CITY
CIVIL COURT,
AT: SECUNDERABAD

A.S.No. of 2023

Between:

M/s. B & C Estates, a partnership firm,
Represented by its Managing Partner

..Appellant/ Plaintiff

And

HDFC Bank Limited,
A partnership firm,
Represented by its Branch Manager

.. Defendant

LIST OF DOCUMENTS FILED BY THE APPELLANT

1. CC of the Judgment and Decree in O.S.No.1082 of 2021 on the Hon'ble
I Junior Civil Judge, Secunderabad

Date : 12.12.2023

Place : Secunderabad

Counsel for the Appellant

IN THE COURT OF THE I ADDITIONAL CHIEF
JUDGE, CITY CIVIL COURT,
AT: SECUNDERABAD

A.S.No. of 2023

Between:

M/s. B & C Estates

A partnership firm,

Rep by its Managing Partner

.....Plaintiff

And

HDFC Bank Limited,

A partnership firm,

Represented by its Branch Manager

.. Defendant

LIST OF DOCUMENTS FILED BY THE
APPELLANT

Filed on: .12.2023

Filed by Counsel for the Appellant

P.Vikram Kumar,

J. Gangadhar,

Sreekanth P.B

Address for Service

24, Ravi Cooperative Housing Society Lt
Trimulgherry, Secunderabad-500015.