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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.676 OF 2015

1. Mangal w/o Appasaheb Shinde PETITIONERS
Age - 45 years, Occ - Agriculture

2. Alka w/o Madhukar Shinde,
Age - 43 years, Occ - Agriculture

Both R/o Rahimpur, Taluka - Sangamner,
District - Ahmednagar

VERSUS

1. Sitaram s/o Lahanu Pimpale RESPONDENTS
Age - 60 years, Occ - Labourer

2. Babulal s/o Lahanu Pimpale,
Age - 55 years, Occ - Labourer

3. Vishnu s/o Lahanu Pimpale
Age - 49 years, Occ - Labourer

R/o Chas (Ramwadi), Taluka - Sinner,
District - Nashik

4. Nana s/o Lahanu Pimpale,
Age - 47 years, Occ - Labourer,

5. Anusayabai w/o Rambhau Pawar,
Age - 57 years, Occ - Labourer

Respondents No.1, 2, 4 and 5
R/o Kasara Dumala,
Taluka - Sangamner,
District - Ahmednagar

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Mr. D. A. Bide, Advocate for the petitioners

Mr. R. D. Bhalerao, Advocate for respondents No.1 to 5

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[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 1st SEPTEMBER, 2015

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard learned advocates for the parties finally with consent.

2. This petition takes exception to an order dated 15th March, 2014 in Miscellaneous Application No. 62 of 2011 on Exhibit-1 thereby condoning the delay.

3. Learned advocate for the petitioners vehemently submits that the reasons given for condonation of delay are self speaking. The delay is inordinate and ought not to have been condoned upon the reasons given. He submits that while the suit was being proceeded with, the respondent – defendants had put in their appearance, through an advocate and as a matter of fact, even application for temporary injunction had been contested. Yet, further proceedings in the suit were not attended to, which culminated into the suit being decreed on 2nd May, 2009. The suit is for specific performance. He further refers to the content of the application shows that the respondents – defendants had become aware of the result in the suit proceedings on 7th January, 2010, yet application came to be

filed for its certified copies only in August, 2011. He submits that the explanation given for said belated application for certified copies is inconceivable. He further submits that the respondents have other avenues open against the decree of the civil court. He further submits that the impugned order is scanty and the learned judge is carried away by other considerations more rather than substance in the application.

4. Learned advocate for the respondents, however, submits that the respondents are tribals and absolutely illiterate persons. Their economic condition is hand to mouth. In the circumstances they could not attend the court proceedings earlier. They have lost possession of the only land of theirs and they have no earning source worth the name. In the circumstances, he requests to eschew pedantic approach and to give a proper lenient treatment to the matter as is being often adopted by the courts. He submits that ostensibly it may be that the impugned order appears to be scanty, however, the court has considered the application with liberal approach. He submits that the respondents deserve an opportunity in the matter as their land is concerned in the proceedings.

5. After hearing learned advocates for the parties, it appears

to be that there is no dispute about the respondents being tribals and labourers and their economic condition being not sound. There is also not much dispute about them being illiterate. In the circumstances taking overall aforesaid scenario into account and having regard to the approach of the courts, generally to take into account reasons given liberally and especially when the discretion has been exercised by the court in favour of the respondents, I do not deem it appropriate to meddle with the same, under extra ordinary powers of this court.

6. Having regard to aforesaid, the writ petition is not being entertained and stands dismissed as such. Rule stands discharged. However, I deem it appropriate that in addition to costs awarded by the trial court, an amount of Rs.1000/- more be deposited by the respondents in the trial court towards costs.

[SUNIL P. DESHMUKH, J.]