

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

WRIT PETITION NO.9897 OF 2014

Smt. Shahnajbi Chandso Mahalkari and ors. : Petitioners

versus

**Nijam Dadu Mahalkari
since deceased through LRs
Shahnoorbi Nijam Mahalkari
since deceased through LRs
Hurbi Amir Hamja Jamadar and ors.**

: Respondents

Mr K P Lad i/by Mr. P D Dalvi for the Petitioners.

**CORAM : R. M. SAVANT, J.
DATE : 12th January 2015**

P.C.

1 The order rejecting the application for condonation of delay in filing the Misc. Civil Application No.171 of 2014 which has been filed for restoration of Misc.Civil Application No.122 of 2009 which has been filed for condonation of delay in filing the Appeal is taken exception to by way of the above Writ Petition.

2 The application for restoration of the said application has been filed after a period of five months of the said application being dismissed for non-prosecution. The Appeal itself is belated by 162 days. The instant application seems to have been motivated by the fact that the Decree Holders have put the decree in execution and the orders are passed in the said execution proceedings. The extent of delay in filing the Appeal as well as the

factum of application for condonation of delay being dismissed for default and thereafter the instant application being filed after a period of five months of the said application being dismissed for default exemplifies the manner in which the proceedings have been prosecuted by the Petitioner. In my view, such a litigant cannot be shown any indulgence by a Writ Court. In that view of the matter, no case for interference in the writ jurisdiction is made out. The above Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]