

IN THE HIGH COURT OF JUDICATURE AT MUMBAI

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2602 OF 2014

IN

WRIT PETITION NO.3883 OF 2009

The Dapoli Nagar Panchayat Vs. Rakesh Rajaram Rasal and another	...	Applicant Respondents
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WITH

CIVIL APPLICATION NO.2603 OF 2014

IN

WRIT PETITION NO.3914 OF 2009

The Dapoli Nagar Panchayat	...	Applicant
Vs.		
Baliram Ganpat Patil and others	...	Respondents

Mr. Rupesh A. Zade for Applicant.
Mr. Vivek Salunke for Respondent No.1.
Ms V. M. Nimbalkar, AGP for Respondent-State.

CORAM : R. G. KETKAR, J.
DATE : JANUARY 09, 2015

P.C. :

Heard Mr. Zade, learned Counsel for applicant, Mr. Salunke, learned Counsel for respondent No.1 and Mr. Nimbalkar, learned AGP for respondent-State.

2. By these applications, the prayer is made for recalling the order dated 07.04.2010 passed by the Registrar (Judl.-I). By that order, applicant was given two weeks time to pay necessary Bhatta charges and 2 copies, failing which, the Petitions were to stand dismissed for want of prosecution under Rule 2(iii) of Chapter VII of the Bombay High Court

Appellate Side Rules, 1960. Mr. Salunke invited my attention to the affidavit filed by the respondent No.1 and submitted that the application was taken out after nearly 3 years and 278 days and no sufficient case is made out for condoning the delay. That apart, the rights are accrued in favour of the respondent No.1 and by restoring the Petitions, the said rights will be taken away.

3. I have considered the rival submissions advanced by the learned Counsel appearing for the parties. I have also perused the material on record. It appears that in addition to these Petitions, the applicant has instituted one more Petition. After hearing both sides, by order dated 02.12.2009, Petitions were admitted. Interim relief, however, was not granted. It is also evident from the record that the third Petition namely, Writ Petition No.3911 of 2009 was also dismissed on 07.04.2010 on the ground of non-removal of office objections. I am told at the Bar that the said Writ Petition is restored.

4. In view of the aforesaid position, I am satisfied that the Petitions require to be restored by condoning the delay. Hence, Civil Applications are allowed in terms of prayer clause (a) with no order as to costs. Writ Petitions are restored to the file of this Court. Liberty to take out application for fixing date of hearing is granted.

(R. G. KETKAR, J.)

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