

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

CIVIL APPLICATION NO.409 OF 2015

(For restoration)

IN

CIVIL APPLICATION NO.1375 OF 2014

(For Stay)

IN

SECOND APPEAL (ST) NO. 23730 OF 2014

IN

REVIEW PETITION NO.02 OF 2006

IN

CIVIL APPEAL NO.188 OF 2004

IN

SPECIAL CIVIL SUIT NO.58 OF 1998

1. State of Maharashtra
(Through-the Collector, Solapur
Collector Office, Solapur)
2. The Executive Engineer,
PWD Office, Div. No.2, Solapur,
3. Shri K.N. Katakdhond
Deputy Engineer, PWD Office,
N.H. Sub.Div. No.21, Solapur, .. Applicants.

V/s

Shri Jayant Ganesh Patil
Age : Adult, occ. Business.
R/o. 124/2, Railway Line,
Kadadi Chawl, Station Road,
Solapur.

.. Respondent.

Mr. A.R. Patil, AGP, for Applicants.
Mr. Jayant Ganesh Patil, respondent-in person.

Coram : Smt. R.P SondurBaldota, J.
Date : 10th March, 2015

P.C.

1. This Civil Application is for restoration of the Second Appeal, after condoning the delay of 26 days. The Second Appeal was dismissed for non-compliance of the order dated 29th October, 2014, This Civil Application is a classic example of the manner in which Office of Government Pleader functions.

2. The Applicants are the State of Maharashtra, The Executive Engineer, PWD Office and Deputy Engineer, PWD Office, Solapur. They have filed Second Appeal (St.) No.23730 of 2014 alongwith the application for condonation of delay beaing Civil Application No. 1373 of 2014. They have also taken out Civil Application No.1374 of 2014 for the interim relief. The applicants moved the Court on 29th October, 2014 on Civil Application No.1373 of 2014 by mentioning the same. At the request of learned AGP, the matter was taken on board for urgent orders. The interim relief prayed for was stay of implementation of the impugned judgment

and decree dated 05th May, 2012 passed by the District Court, Solapur in Review Petition No.2 of 2006, by which the applicants were directed to pay damages of Rs.50,000/- to the respondent for illegal demolition of his shed on the suit property. It was submitted by the learned AGP that respondent/plaintiff had preferred an execution application and the executing Court had issued warrant of attachment on the application. A statement was also made that the applicants were ready and willing to deposit the entire decretal amount in the Trial Court within 10 days from the date of order i.e. 29th October, 2014. The statement was accepted and the Court granted Rule on the Civil Applications, which were made returnable after 12 weeks. Until the returnable date, operation and implementation of the judgment and decree was stayed on the condition that the applicants deposit the entire decretal amount in the Trial Court. By the same order, the applicants were directed to remove all office objections of the Second Appeal within eight weeks from that day, failing which the Second Appeal was directed to be dismissed without further reference to the Court.

3. The applicants failed to remove the office objections, consequently, the office has dismissed the Second Appeal. This

dismissal led to dismissal of all the Civil Applications in the Second Appeal, including Civil Application No.1373 of 2014 for condonation of delay.

4. Mr. Patil the learned AGP submits that the present Civil Application is infact for an extension of time to remove the office objections. According to him it has been taken out in view of the directions contained in the order dated 29th October, 2014.

5. The application is patently misconceived and not maintainable. The order dated 29th October, 2014 is the self operative order. Consequently, noncompliance with it automatically resulted into dismissal of the application as also the Second Appeal. Therefore, there is no question of extension of time to remove office objections. In any case, even on merits the Civil Application cannot be allowed because it does not even attempt to explain the noncompliance with directions contained in the order. Hence, the Civil Application No.409 of 2015 is dismissed.

(Smt. R.P. SondurBaldota, J.)