

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3128 OF 2015

M/s. Rughani Developments,
Builders & Developers and anr.

.. Petitioners

vs.

Mr. Suresh R. Gupta and anr.

.. Respondents

Mr. H.S. Venegaonkar a/w. Mr. Ashok Purohit i/b Ashok Purohit and
Co for the Petitioners.

CORAM : M. S. SONAK, J.

DATE : 26 MARCH, 2015

P.C. :-

1] This petition challenges the order dated 10 July 2014 made by the Principal District Judge, Thane, declining to condone the delay in institution of an Appeal against the judgment and decree dated 10 May 2012. The Hon'ble Apex Court, in case of *Shyam Sundar Sarma Vs. Pannalal Jaiswal and ors - (2005) 1 SCC 436*, has held that an appeal when dismissed on refusal to condone the delay is nevertheless a decision in the appeal.

2] In view of the aforesaid, it is not possible to entertain the present petition.

3] If however, the petitioners prefer an appeal within four weeks from today, then the petitioners shall be entitled to contend that the period between the date of filing of the present petition and today, was spent *bona fide* in pursuing remedy against the impugned order dated 10 July 2014.

4] With the aforesaid observations, present petition is dismissed.
There shall be no order as to costs.

(M. S. SONAK, J.)

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