

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 199 OF 2015
IN
CIVIL REVISION APPLICATION (ST.) NO. 28166 OF 2014

Smt. Jashodaben A. Patel .. Applicant
vs.
Pratapsingh s/o. Chhabildas Patel and ors. .. Respondents

Ms Farha Naaz h/f. Mr. Anand Singh for the Applicant.
Mr. M. Tanna for Respondent Nos.1 to 3, 5 & 6.

CORAM : M. S. SONAK, J.
DATE : 10 JUNE 2015.

P.C. :-

1] This is an application for restoration of Civil Revision Application which came to be dismissed for non-removal of office objections. There is delay of about 51 days in filing the application.

2] If the averments made in the Civil Application are perused, then it transpires that the applicant, who is a senior citizen and whose wife is ailing had entrusted the matter to a Junior Advocate. The applicant had been pursuing the matter, but possibly because the applicant as well as junior advocate are not well versed in the procedure, office objection remained to be cleared and the Civil Revision Application came to be dismissed for non-prosecution. This is not a case where the applicant or her junior advocate can be said to have acted in a totally negligent manner. The delay is also not

inordinate and sufficient cause has been shown for condonation of same.

3] The respondents have filed reply opposing the condonation of delay and restoration. In the reply, it has been urged that the Civil Revision Application itself has become infructuous as the execution of decree against the applicant has already been executed. This is not a stage considering such a submission. At least, *prima-facie*, the mere circumstance that the impugned order has been executed does not render the Civil Revision Application infructuous. This is because remedy of restoration may always be available to the applicant.

4] Be that as it may, since sufficient cause has been shown, the order dated 5 January 2015 dismissing the Civil Revision Application for non-prosecution/non removal of office objections is recalled after condoning the delay.

5] Accordingly, Civil Application is made absolute in terms of prayer clause (a) and (b), subject to applicant paying costs of Rs.3000/- to the respondents on or before 13 July 2015.

6] Civil Revision Application (St.) No. 28194 of 2014 to be placed for admission on 13 July 2015.

(M. S. SONAK, J.)

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