

IN THE HIGH COURT OF JUDICATURE AT MUMBAI
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.269 OF 2015
IN
CIVIL REVISION APPLICATION (ST.) NO.11920 OF 2015
IN
FIRST APPEAL (ST.) NO.26028 OF 2011

State of Maharashtra and another ... Applicants
Vs.
Zunzur Yashwant Yaware Patil ... Respondent

WITH
CIVIL APPLICATION NO.270 OF 2015
IN
CIVIL REVISION APPLICATION (ST.) NO.11916 OF 2015
IN
FIRST APPEAL (ST.) NO.14028 OF 2011

State of Maharashtra and another ... Applicants
Vs.
Tukaram D. Dhage ... Respondent

WITH
CIVIL APPLICATION NO.271 OF 2015
IN
CIVIL REVISION APPLICATION (ST.) NO.11910 OF 2015
IN
FIRST APPEAL (ST.) NO.8384 OF 2012

State of Maharashtra and another ... Applicants
Vs.
Bibishan Narayan Ghavane and others ... Respondents

Mr. A. R. Patil, AGP for Applicants in all CAs.

CORAM : R. G. KETKAR, J.
DATE : 17TH JULY, 2015

P.C. :

Heard Mr. Patil, learned AGP for Applicants.

2. The above Civil Applications have been filed for condonation of delay in filing the Civil Revision Applications. The delay is of more than 3 years. The cause for filing the above Civil Revision Applications is the conditional order passed in the above group of First Appeals by the learned Registrar (Judicial-I) on 22.09.2011 in each of the First Appeals. The said conditional order is to the following effect:

“Two weeks time granted to pay deficit court fees, failing which registration shall automatically stand refused.”

It is on account of non-compliance of the said conditional order, the same became operative and resultantly, the registration of the First Appeals stood refused.

3. The order passed by the learned Registrar (Judicial-I) is referable to Rule 4 (vi) of Chapter V of High Court (Appellate Side) Rules. Against such an order, there is a remedy of revision provided by Rule 6 of the same Chapter. The said Rule provides that against the order passed by the learned Registrar refusing registration of any matter under the foregoing Rule, the same shall be revisable upon a regular stamp application, which shall be filed within 7 days from the date of the order.

4. It is required to be noted that the First Appeals were filed by the applicants i.e. the State of Maharashtra and the Acquiring Body on the payment of the nominal Court fees. In identical fact situations, three learned Judges of this Court have come to a conclusion that notice to other side in so far as the condonation of delay in filing the Civil Revision Applications, which have been filed for setting aside the conditional order of the learned Registrar, Judicial (I) of this Court is not required. The last of the orders is the order dated 16.12.2014 passed by this Court in Civil Application No.678 of 2014 in Civil Revision Application (St.) No.21605 of 2014 and companion matters.

5. The above Civil Revision Applications have been filed by the applicants for restoration of the First Appeals. In the light of the aforesaid precedents and considering the averments made in the above Civil Applications, the Civil Applications for condonation of delay in filing the Civil Revision Applications are required to be made absolute and are accordingly made absolute in terms of prayer clause (b) of the above Civil Applications.

6. The above Civil Revision Applications for restoration of the First Appeals are also required to be allowed and are accordingly allowed in terms of prayer clause (b) in each of the Civil Revision Applications. Resultantly, the First Appeals are restored to file. On restoration of the First Appeals, the State to deposit the deficit Court fees within a period of 8 weeks from today.

7. The above Civil Applications and the Civil Revision Applications are accordingly disposed of.

(R. G. KETKAR, J.)

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