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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.2101 OF 2015
IN
WRIT PETITION NO.1754 OF 1999

Marie Mignon Mascarenhas and Ors. ... Applicants

In the matter between

Olga F. Mascarenhas ... Petitioner

Vs.

Union Territory of Daman & Diu ... Respondents

Mr. V.B. Naik, Senior Advocate a/w Mr. Bhavik Manek & Mr. Kausar Banatwala i/by Mr. Tushar A. Goradia, for the Applicants.

Mr. Pradeep Jetly a/w Mr. Shrishailya Sadashiv Deshmukh, for the Respondent Nos.1 and 2.

**CORAM : A.S. OKA &
V.L. ACHLIYA, JJ.**

DATE : 8th OCTOBER, 2015

PC.

. Heard the learned Senior Counsel appearing for the Applicants and the learned counsel appearing for the Respondents. The Applicants are claiming to be the legal representatives of the original Petitioner. On 29th June, 1999 the Petition was admitted after hearing the Respondents and ad-interim relief was granted. On 18th June, 2001 by a common conditional order passed in 320 Writ Petitions, time of four weeks was granted to remove office objections. There were two

objections. The first one was that the Article under which the Petition was filed was not stated and the second one was that the impugned order was not flagged properly. As the said objections were not removed, for the reasons which are stated in paragraph 5 of the application, the Petition stood dismissed for non-prosecution.

2. The original Petitioner died on 5th June, 2004. It is pointed out that the original Petitioner was represented in the Writ Petition by Constituted Attorney who had died on 20th July, 2003. It is stated that the legal representatives of the Writ Petitioner learnt in November, 2004 that the Writ Petition was dismissed. On 25th January, 2005 a Civil Application was filed by the legal representatives. The registration of the Civil Application was refused by the learned Registrar on the ground of failure of the Advocate for the Applicants in the said application to remove office objections. It is stated that the Applicants were represented by a Constituted Attorney in the said application who suffered heart attack on 17th November, 2009. Thereafter, Civil Application No.2095 of 2010 was filed for setting aside the order dated 18th June, 2001 and for restoration of the Writ Petition. On 27th October, 2010, a liberty was granted by this Court to withdraw the application with liberty to file a appropriate application. Accordingly, Civil Application No.279 of 2011 was taken out for restoration of the Writ Petition as well as for restoration of the earlier Civil Application which

was dismissed. It is pointed out that as there was no prayer in the said Civil Application No.279 of 2011 (which is still pending) for bringing the legal representatives of the Petitioners on record, the present application has been filed. The learned counsel appearing for the Respondents has opposed the application.

3. Though there is a considerable delay, the same has been adequately explained in the application. The learned Senior Counsel appearing for the Applicants, on instructions, states that if the Petition is restored, the Applicants will not insist on restoration of interim relief.

4. In view of the averments made in the application, the same is allowed in terms of prayer clauses (a) to (c). Amendment to be carried out in the Writ Petition within a period of three weeks from today. We make it clear that the interim relief in Writ Petition is not restored.

5. In view of this order, Civil Application No.279 of 2011 stands disposed of.

6. After amendment is carried out, Writ Petition be immediately added to the appropriate weekly board.

(VL. ACHLIYA, J)

(A.S. OKA, J)