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IN THE HIGH COURT OF JUDICATURE AT MUMBAI

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11460 OF 2015

Smt.Anusaya Pandurang Rupnavar and others .. Petitioners

Vs.

Shri Baburao Pandurang Rupnawar and others .. Respondents

Mr.R.M.Haridas i/b Mr.Sumit Khaire, Advocate for the Petitioners.

CORAM : R.G.KETKAR, J.

DATED : 14^h DECEMBER, 2015

P.C. :

. Not on board. At the request of Mr.Haridas, taken up for admission.

2. Heard Mr.R.M.Haridas, learned Counsel for the petitioners.

3. By this Petition under Article 227 of the Constitution of India, original defendants No. 1 to 8 & 10 have challenged the order dated 08/09/2015 passed by the learned Joint Civil Judge, Junior Division, Daund below Exhibits 77 & 79 in Regular Civil Suit No. 8 of 2008. By this order, the learned trial Judge rejected the application at Exhibit 77 made by the petitioners for condoning the delay of about 4 years in filing the application Exhibit 79 for setting aside 'no W.S.' order and for taking written statement on record.

4. Mr.Haridas fairly stated that the reasons given in applications at Exhibits 77 & 79 do not constitute a sufficient cause

for condoning the delay. He seeks permission to withdraw the applications at Exhibits 77 and 79 and seeks liberty to file fresh applications by giving further and better particulars for condoning the delay for not filing application for setting aside 'no W.S.' order and seeking permission to file written statement. He submits that in case, the Court is inclined to permit the petitioners to file fresh applications, the learned trial Judge may be directed to decide those applications uninfluenced by the observations made in the impugned order. He further states that all the contentions of the respondents on the proposed applications may be kept open. In view thereof, Petition is disposed of as not pressed in the following terms.

- i) The petitioners are permitted to withdraw applications at Exhibits 77 & 79 with liberty to file fresh applications by giving better and further particulars.
- ii) All the contentions of the respondents on the proposed applications are kept open.
- iii) If such applications are taken out by defendants No. 1 to 8 & 10, the learned trial Judge will decide those applications on the basis of the material on record and in accordance with law uninfluenced by the observations made in the impugned order.

5. The parties including the trial Court to act upon authenticated copy of this order. Order accordingly.

(R.G.KETKAR, J.)