

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

REVIEW PETITION NO. 146 OF 2015
IN
WRIT PETITION NO. 7284 OF 2005

Sushila J. Tiwari @ Sushila	
Deonath Pande	.. Petitioner
VS.	
Jagdish R. Halwai & Ors.	.. Respondents

Mr. I. S. Yadav for Petitioner.

CORAM : M. S. SONAK, J.
DATE: 17 NOVEMBER 2015

P.C. :-

- 1] **Not on board. Upon production, taken on board.**
- 2] Heard the learned counsel for the Petitioner.
- 3] In this case, apart from the lack of diligence on the part of the Petitioner throughout the carriage of the matter, there was delay of over four years in seeking recall of the order dated 3 November 2000, in terms of which the Petitioner was directed to restore possession of the suit premises to the Halwais. The only explanation for this inordinate delay was that there were some compromise talks between the parties. In that regard, a reference is made to one of the applications made by the Halwais, in which there is some reference to some settlement talks. It is upon

considering this matter, that this Court had recorded the conclusion that there was no sufficient cause shown for explanation of inordinate delay of almost four years. The Competent Authority had declined to condone the delay. This Court upon considering the material on record endorsed the finding of the Competent Authority. It was recorded that even assuming that there was some compromise talks between the parties, that was no justification for not applying for recall of the order dated 3 November 2000 until 15 July 2004. The record in this case indicates that the Petitioner is bent upon prolonging proceedings and taking advantage of the pendency of proceedings to retain possession of the suit premises. As noted in the order of which review is applied for, even this petition was dismissed on two occasions for default and thereafter the same was restored. After obtaining interim orders, the Petitioner did not even bother to effect service upon the Respondents but continued in possession of the suit premises on the basis of interim orders. In this review petition, it is once again urged that there are several grounds on merits and in any case, the circumstance that some compromise talks were on is the sufficient ground to condone delay of four years. This review petition is nothing but an attempt to re-argue the matter. There is no error apparent on face of record pointed out. Therefore, this review petition is dismissed.

4] The learned counsel for the Petitioner, once again seeks a stay on the execution of order dated 3 November 2000. For the reasons recorded in paragraph 9 of the judgment and order dated 13 October 2015, the prayer for stay is declined.

(M. S. SONAK, J.)

Chandka