

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.149 OF 2015.

Ibrahim Saheb Burhan Saheb Kokni .. Applicant

vs.

Dulhanbi Malang Saheb Kokni (deceased)

and ors.

.. Respondents

Mr. S.S. Patwardhan for the Applicant.

Mr. M. Singh h/f. Mr. S.M. Gorwadkar for Respondent Nos. 2,3 & 4(1) to 4(4).

CORAM : M. S. SONAK, J.

DATE : 23 MARCH, 2015

P.C. :-

1] This Civil Revision Application challenges the order dated 26 April 2014, by which the 9th Civil Judge, Junior Division at Nashik has allowed the application of original plaintiff No.6 to bring on record the legal representatives of deceased plaintiff No.5 after condoning the delay of about 13 months.

2] Learned counsel for the applicant submits that this is a case where no cause whatsoever was shown for condonation of delay of 13 months. Further, the plaintiffs are delaying the proceedings and failure to bring on record the heirs of deceased plaintiff No.5, was basically in order to delay the proceedings which are pending since the year 2002.

3] Having perused the impugned order and the records, there is no jurisdictional error in making the impugned order. The learned Civil Judge has made an equitable order and exercised discretion in the matter of condonation of delay. The learned Civil Judge has also awarded costs of Rs.3,000/-.

4] If the application seeking condonation of delay is perused, then it will be seen that the plaintiff No.5 was initially defendant No.16. Thereafter, upon a motion of transposition, the said defendant No.16 came to be transposed as plaintiff No.5. The application states that it is at this stage, it was realised that there was requirement of bringing the heirs of deceased plaintiff No.5 on record.

5] In matters of this nature, the length of delay is not always very relevant. What is relevant is quality of explanation offered. Further, if the learned Civil Judge has exercised discretion in positive manner by way of condoning the delay, normally it is not for this Court to interfere in the exercise of such discretion, unless it is established that the same is based upon palpably incorrect principles or suffers from perversity. Non of these vices attach to the impugned order.

6] Accordingly, the present Civil Revision Application is dismissed. There shall be no order as to costs.

7] However, considering the circumstances that the suit has been pending from the year 2002, it is directed that the same be disposed of, as expeditiously as possible and in any case within a period of one year from the production of an authenticated copy of this order.

8] Parties to act upon an authenticated copy of this order.

(M. S. SONAK, J.)