

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY, NAGPUR
BENCH, NAGPUR.**

**CIVIL APPLICATION (CAO) NO.646 OF 2014
IN
MISC. CIVIL APPLICATION ST. NO.3857 OF 2014
IN
WRIT PETITION NO.2061 OF 1994 (D)**

Bhojraj Gupta and ors

..vs..

The State of Mah. and ors

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Office Notes, Office Memoranda of
Coram, appearances, Court's orders
of directions and Registrar's orders

Court's or Judge's order

Shri A.J. Gilda, counsel for the applicants.
Shri J.B. Kasat, counsel for NA No.4/Resp.

<u>CORAM</u>	: B.P. DHARMADHIKARI & A.S. CHANDURKAR, JJ.
<u>DATE</u>	: JANUARY 28, 2015.

Heard.

By this application, the applicants, who claim to be the subsequent purchasers of the property in dispute from the original petitioners in Writ Petition No.2061 of 1994, have sought leave to file the application for restoration.

It is stated that the predecessors in title of the applicants had filed the aforesaid writ petition seeking de-reservation of the plot in question. The said writ petition was permitted

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to be withdrawn on 19.6.2006. By order dated 8.1.2013, the earlier order was recalled and the writ petition was restored to file. However, subsequently, on 16.7.2013, the writ petition came to be dismissed for want of prosecution. It is in this background that the present application for leave to file the application for restoration has been moved. In paragraph No.5 of the application, the applicants referred to sale deed dated 14.5.2012 on the basis of which they claim title. It is stated that vital rights of the applicants are at stake and hence, aforesaid leave is being sought.

Shri J.B. Kasat, learned counsel for respondent No.4, opposes the application on the ground that the applicants were neither the petitioners nor the respondents in the said writ petition. He, however, does not specifically dispute the execution of sale deed in favour of the applicants.

Considering the fact that in the writ petition there is a prayer for de-reservation of the plot in question and the applicants are presently the owners thereof, they are granted

leave to file the application for restoring the said writ petition. Hence, Civil Application (CAO) No.646 of 2014 stands allowed by granting such leave.

Civil Application (CAO) No.646 of 2014 stands disposed of accordingly.

Civil Application St. No.3858 OF 2014

Heard.

The prayer is to condone the delay in filling the restoration application.

It is stated that the original petitioners having sold the suit property in favour of the applicants, they were not interested in prosecuting the writ petition. Hence, the writ petition came to be dismissed for want of prosecution on 16.7.2013. Hence, prayer for condoning the delay in seeking restoration has been made.

The application is opposed by learned counsel for respondent No.4 on the ground that the reasons as assigned are not sufficient.

Considering the fact that the applicants are presently holding title to the plot in question, the delay in seeking restoration of the writ petition stands condoned.

Civil Application St. No.3858 of 2014 is allowed and disposed of accordingly.

Misc. Civil Application St. No.3857 of 2014

Heard.

Issue notices to the petitioners as well as respondents, returnable on **25.2.2015**.

Shri C.N. Adgokar, learned Assistant Government Pleader, waives notice on behalf of respondent Nos.1 to 3.

Shri J.B. Kasat, learned counsel, waives notice for respondent No.4.

JUDGE

JUDGE

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