

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION (CAO) NO.683 OF 2015
IN
MISC. CIVIL APPLICATION ST. NO.4188 OF 2015
IN
REJ. MISC. CIVIL APPLICATION NO.96 OF 2015
IN
REJ. MISC. CIVIL APPLICATION NO.235 OF 2014
IN
MISC. CIVIL APPLICATION NO. 796 OF 2004
IN
WRIT PETITION NO.2160 OF 1992(D).

(TRILOKNATH KISHAN DEVEDIA & OTH..VS..RESIDENT DEPUTY COLLECTOR & OTH.)

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

Court's or Judge's orders

Shri Karbhari, Advocate h/f. Shri D.C. Daga, Advocate for Applicants.
Shri A.M.Deshpande, A.G.P. for Respondent No.1.

CORAM : Z.A.HAQ, J.
DATED : SEPTEMBER 16, 2015.

Heard.

Writ Petition No. 2160 of 1992 was filed by the petitioners challenging the order passed under the provisions of the C.P. and Berar Letting of Premises and Rent Control Order, 1949. The petition was admitted. When the petition was called for final hearing on 25th November, 2004 none appeared for the petitioners even on second call and therefore, the petition was dismissed for want of prosecution.

2. The petitioners filed Misc. Civil Application No. 796 of 2004 praying for restoration of the writ petition. This Court by the order dated 5th May, 2005 issued notice of Misc. Civil Application No. 796 of 2004. The petitioners had not paid process fees and had not supplied the copies of the

Miscellaneous Civil Application for issuance of notices to the respondents. The matter was listed before the Court on 11th August, 2005 on which date the following order was passed :

“Office objections to be removed within two weeks, failing which the matter shall stand automatically dismissed without reference to the Court.”

The office objections were not removed within the stipulated time and therefore, the matter came to be dismissed and the Registry recorded accordingly on 25th August, 2005.

3. The petitioners then filed Misc. Civil application Stamp No.4345 of 2014 on 27th February, 2014 i.e. after almost 8½ years praying for restoration of Misc. Civil Application No. 796 of 2004. As there was delay in filing this Miscellaneous Civil Application, the petitioners filed Civil Application Stamp No. 4348 of 2014 praying for condonation of delay. In paragraph No.3 of the application the petitioners stated as follows :

“That there is delay of _____ days in moving the restoration application.”

And in the prayer clause also it was stated as follows :

“It is therefore most humbly prayed that the delay of _____ days in filing the restoration application with regards to rejected M.C.A. no. 796/04 be condoned for the reason stated above in the interest of justice.”

From this application, I find that the petitioners have not explained the inordinate delay in filing the M.C.A.

Stamp No.4345 of 2014. The learned advocate for the petitioners had not removed the office objections inspite of grant of time by the Registrar, therefore, the M.C.A. St.No. 4345 of 2014(R.C. No.235/2014) came to be dismissed on 10th April, 2014.

4. The petitioners filed M.C.A. St.No.23667 of 2014 praying for restoration of M.C.A. No. 235/2014. There was delay in filing this M.C.A. and therefore, C.A. St. No. 23668 of 2014 was filed praying for condonation of delay. Again in paragraph No.3 and prayer clause of the application, there are blanks and the number of days by which the filing of the M.C.A. St.No.23667 of 2014 is delayed, has not been mentioned. The M.C.A. St. No. 23667 of 2014 was dismissed on 16th February, 2015 for non-removal of the office objections.

5. M.C.A. St.No. 4188 of 2015 has been filed praying for restoration of M.C.A. St.No.23667 of 2014. As there is delay in filing the M.C.A., the petitioners have filed C.A. No.683 of 2015 praying for condonation of delay in filing the M.C.A.

6. After considering the statements made in the Civil Applications and the Misc. Civil Applications and the orders passed by this Court and the Registrar of this Court, I find that there has been callousness on the part of the petitioners and their advocate in conducting the matter. This Court, while issuing Rule on 29th September, 1992, had granted interim order in favour of the petitioners. There is reason to believe that the callousness on the part of the petitioners and their advocate is not inadvertent. As recorded earlier, in the

Civil Application Stamp No. 4348 of 2014 the number of days by which the filing of M.C.A. St.No. 4345 of 2014 is delayed, are not stated and blanks are left at two places. The M.C.A. St.No. 4345 of 2014 is filed almost after 8 and ½ years. There is no explanation for the inordinate delay in filing the M.C.A. No. 4345 of 2014.

Similarly, in C.A. St. No. 23668 of 2014, the number of days by which the filing of M.C.A. St.No.23667 of 2014 is delayed are not stated and blanks are left.

In view of the facts, I am not satisfied that there are bonafides on the part of the petitioners. The Civil Application is dismissed with costs quantified at Rs.Five Thousand to be deposited by the petitioners with the High Court Legal Services Sub-Committee, Nagpur within four weeks.

JUDGE

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