

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

CIVIL APPLICATION NO.10825 OF 2015 IN
REVIEW APPLICATION ST. NO.4691 OF 2015 IN
CIVIL REVISION APPLICATION NO.150 OF 2014

Sayyad Minya s/o Sayyad Burhan ... APPLICANT

VERSUS

Sayyed Noor s/o Sayyed Burhan & ors. ... RESPONDENTS

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CORAM: A.I.S. CHEEMA, J.

DATED: 14th March, 2016.

ORAL ORDER :

1. After presentation of the Civil Application for condonation of delay with review application which has been tendered, the matter had come up on 21.11.2015 before another learned Single Judge of this Court. In view of the orders then passed, the matter was placed before me. On 29.2.2016, though the matter was listed, none appeared for the applicant. Same was the position on 7.3.2016. It was directed to list the application as well as the review tendered on 14.3.2016. Today also none is present for the applicant.

2. I have gone through the delay condonation application. I have also gone through the review application as tendered and grounds which have been raised. I have perused the concerned record and order of this Court in Civil Revision Application No.150/2014.

3. Going through the material, I do not find that the applicant has made out a case to review the orders passed by this Court in Civil Revision Application No.150/2014. There is no error on the face of record. I have gone through the grounds raised and the order of this Court. The applicant is trying to state that as the earlier Regular Civil Suit No.30/2011 was not decided on merits, the subsequent suit is maintainable. According to him, Order II Rule 2 of the Code of Civil Procedure will apply only if earlier suit was decided on merits and order XXIII Rule 4 cannot be resorted to. This Court has considered the effect of provisions of Order II Rule 2 of the Code of Civil Procedure along with sub-rule (3) and (4) of Order XXIII Rule 1 of the Code of Civil Procedure. It is question of law in the set of developments in the litigation. It does not appear that case is made out to review. The present application for condonation of

delay is filed along with review application instead of proceeding against the impugned order of this Court dated 10.3.2015. There is no reason to interfere. The application is rejected as well as the review application tendered is declined to be entertained.

(A.I.S. CHEEMA, J.)

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