

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

906 WRIT PETITION NO. 10512 OF 2014

SUMANBAI UDDHAVRAO MORE
VERSUS
BHARATABAI SUBHASH BORGAONKAR AND OTHERS

Shri. P.R. Katneshwarkar, Advocate, for petitioner.

Shri. Parag V. Barde, Advocate, for respondent Nos.1 & 2.

CORAM: T.V. NALAWADE, J.

DATE : 27 SEPTEMBER 2016

ORDER:

1) The petition is filed to challenge the orders made by the District Court on Exhibit 29 of delay condonation application bearing Misc. Civil Application No.2/2011 and on Exhibit of Regular Civil Appeal No.31/2013 which was pending in the Court of the District Judge-1, Omerga. Said application was filed for condonation of delay caused in filing first appeal against the judgment and decree of Regular Civil Suit No.204 of 2008 which was pending in the Court of the Civil Judge, Junior Division, Omerga. Decree of permanent injunction is granted in favour of the plaintiff, present petitioner. While allowing the delay condonation application condition was imposed to pay

cost of Rs.1,000/- and that amount was to be deposited within 15 days from 27-6-2013. It appears that the amount was not deposited within prescribed time. Then application at Exhibit 29 was moved on 27-8-2013. By order dated 3-10-2013 permission was granted by the first appellate Court. In view of provision of Section 148 of the Civil Procedure Code the Court could have granted extension of 30 days.

2) Learned counsel for the respondents placed reliance on two cases reported as **2006(2) ALL MR 505 (Smita Arvinda Apte vs. Ajay Pandurang Potdar)**; and, **2007(6) ALL MR 875 (Yamunabai Pundalik Khachane vs. Vijaya Dnyandeo Ingale)** of this Court in which power of the Court given under sections 151 and 148 of the Civil Procedure Code is discussed. In any case, such order involves discretion. This Court is not expected to interfere in the order which involves use of discretion by the Courts below. There are no merits in the present matter. The petition stands dismissed. Interim relief is vacated.

Sd/-
(T.V. NALAWADE, J.)

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