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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.16127 OF 2015
IN
CIVIL REVISION APPLICATION STAMP NO.35152 OF 2015

Jaisinha Shivajirao Pandit and Another

APPLICANTS

VERSUS

Sadhanabai Sahebrao Bhople and Others

RESPONDENTS

.....

Mr. N. B. Khandare, Advocate for the applicants
Mr. S. P. Shah, Advocate for respondent No.1

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[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 7th OCTOBER, 2016

ORDER :

1. Heard learned advocates for the parties.
2. It is being submitted on behalf of the applicants that delay of 204 has been caused for lack of knowledge of the order on Exhibit-18 dated 10th February, 2015, within time. It is being contended that applicant No.2 is resident of Pune and had been unaware of the order and for some unavoidable reasons, applicant No.1 could not keep in touch with litigation for quite some time and as such, had no knowledge of the order been passed. It is, therefore, submitted that under aforesaid genuine

circumstances, the delay has been caused.

3. On the other hand, countering aforesaid submissions with quite some vehemence, learned advocate for respondent No.1 contends that the delay appears to be part of design of dilatory tactics being developed by the defendants in the suit. He for said purpose purports to draw attention to page 3 of the affidavit in reply and submits that as a matter of fact, applicant No.2 had not filed Exhibit-18 and it was applicant No.1. He further refers to other aspects as to in spite of appearance being caused, non filing of written statement and some orders with respect to no written statement having been passed. According to him under a strategy, suit progress is not being allowed to take place at expected pace with which suit ought to have proceeded. He further, submits that there is no credible material being provided in the present civil application from which it can be deduced that it was lack of knowledge and which is the reason for delay.

4. Although it is being submitted on behalf of respondent No.1, it is difficult to consider that the reason given by the applicants is absolutely without substance. In any case, the applicants would seldom gain any benefit from causing deliberate delay, if they are really aggrieved by the impugned order.

However, in the circumstances, the inconvenience caused to the plaintiffs can be taken care of by awarding costs.

5. As such, civil application for condonation of delay stands granted in terms of prayer clause "A" and stands disposed of, on the condition of payment of costs of Rs.20,000/- to be deposited by the applicants in the trial court for onward disbursal to the plaintiffs. The amount of cost shall be deposited within a period of four weeks from today.

6. Civil revision application to proceed accordingly.

7. It is further being made clear that the observations hereinabove have efficacy limited to condonation of delay and no further.

[SUNIL P. DESHMUKH, J.]