

IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 636 OF 2016

IN

WRIT PETITION NO. 165 OF 2008

SMT. CHANDRIKA C. GAUDE AND 3 ORS. ... Applicant
Versus
STATE OF GOA, THROUGH ITS CHIEF
SECRETARY AND 3 ORS. ... Respondent

Mr. Mahesh Amonkar, Advocate for the applicants.
Mr. D. Shirodkar, Addl. Government Advocate for the
respondent nos. 1 to 3.
Mr. E. Usapkar, Advocate for the respondent no.4.

Coram:- F. M. REIS, J.

Date:- 5th December, 2016

P.C.

Heard Mr. Mahesh Amonkar, learned counsel appearing for the applicants, Mr. D. Shirodkar, learned Addl. Government Advocate appearing for the respondent nos. 1 to 3 and Mr. E. Usapkar, learned counsel appearing for the respondent no.4.

2. The above application seeks to recall the order dated 30.06.2016 whereby a Writ Petition filed by the applicants was dismissed for default.

3. Mr. Amonkar, learned counsel appearing for the applicants submits that on the subject date, the Advocate for the

applicants was held up before the Division Bench and as such when the matter was taken up, none appeared on behalf of the applicants which led to the passing of the impugned order. The learned counsel further submits that on the other occasion, the Advocate of the applicants was present at the time of the hearing of the petition.

4. On the other hand, Mr. E. Usapkar, learned counsel appearing for the respondent no.4 objects to the said application and points out that the applicants have been negligent in proceeding with the petition and despite of several opportunities the applicants have failed to remain present. The learned counsel as such submits that there is no case made out for recalling the impugned order.

5. Mr. D. Shirodkar, learned Addl. Government Advocate appearing for the respondent nos. 1 to 3 submits to the order of this Court.

6. I have considered the submissions of the learned counsel and I have also gone through the records. The fact that the learned counsel for the applicants was before the learned Division Bench when the order sought to be recalled was passed is not in dispute. In such circumstances, I find that the impugned order passed by this Court dated 30.06.2016 deserves to be

recalled. But however, it is made clear that the applicants should be diligent in pursuing the petition and on failure to do so, a serious view will be taken by this Court on that count. Hence, the order dated 30.6.2016 is recalled. Writ Petition is restored to the file.

7. The application stands disposed of accordingly. Place the petition for final hearing in January, 2017.

F. M. REIS, J.

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