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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION***

CIVIL APPLICATION NO. 514 OF 2016

in

WRIT PETITION NO. 2730 OF 1995

Smt. Babibai w/o. Gangadhar Pathare
(Since deceased through her legal L.Rs.)

1. Mr. Vijay Gangadhar Pathar & Ors.

... Applicants.

V/s.

Shri Kalaram Sansthan Panchvati, Nasik
through its Trustees & Ors.

... Respondents.

Mr. P.N. Joshi for the Applicant & Orig. Respondent.
None for the Respondents.

CORAM : N.M. Jamdar, J.

22 December, 2016.

P.C. :-

On 24 February 2016 following order was passed by
R.M. Sawant, J. :-

*“ 1. Heard Mr. P. N. Joshi, the Learned Counsel
appearing for the Applicants.*

2. Issue notice to the Respondents, returnable on 23.03.2016. In addition to service of notice through Court, the advocate for the Applicants shall serve a private notice by Registered Post A.D. and/or by Courier service and/or by hand delivery on the Respondents and shall file affidavit of service before the returnable date.

3. The above Writ Petition has stood dismissed for non-prosecution on account of the conditional order dated 26.07.2005 passed by a Learned Single Judge of this Court. By the said order, the Petitioner was directed to remove the office objections within four weeks. In so far as the Respondent No.2 is concerned, the Petitioner had filed an application to bring on record the new trustee who was appointed in place of the Respondent No.2 being Civil Application No.2803 of 2004. In so far as the Respondent No.4 is concerned, he had expired however the Petitioner was awaiting information as regards his heirs or legal representatives. It is in the said context that the order dated 26.07.2005 could not be complied with. It is the submission of the Learned Counsel for the Applicants Mr. P. N. Joshi that at the highest the Writ Petition could have been against Respondent No.4, but could not have been dismissed wholly as the other Respondents were served. The delay in filing above Civil Application has been justified on the ground that it is only after the notice of Darkhast was received that the Petitioners realized the need to file the Civil Application for restoration. Hence, there would be ad-interim relief to the effect that the execution proceedings being Regular Darkhast No.108 of 2015 not to be proceeded with until further orders of this Court.”

2. The learned Counsel for the Applicants states that appearance is filed on behalf of the Respondents. None appears for the Respondents. No reply is filed. In view of the observations made by the learned Single Judge in the order dated 24 February 2016, case is made out for grant of the Civil Application. Accordingly, the Civil Application is allowed in terms of prayer clauses (a), (b), (c) and (d). Amendment to be carried out within period of three weeks from today. The Respondents shall supply changes in the name of Trustees to the Applicants within period of four weeks from today.

(N.M. Jamdar, J.)