

JPP

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

CIVIL APPLICATION NO. 2705 OF 2015

in

WRIT PETITION NO. 2404 OF 2005

Marathi Catholic Samaj & Ors.

... Applicants.

V/s.

Mr. Marcus Sangle and Ors.

... Respondents.

None for the Applicants.

Mr. Suresh Dubey for Respondent 1, 3 to 6.

Mr. A.A. Garge for Respondent Nos.1 to 10.

CORAM : N.M. Jamdar, J.

14 October, 2016.

Oral Order :-

Civil Application is filed for restoration of Writ Petition No. 2404 of 2005. The Writ Petition was disposed of on 2 December 2008 on the ground that since the suit is disposed off nothing survives in the Writ Petition and liberty was granted to approach the Court in case the need arises. The Civil Application is taken out on 29 September 2014. In the Civil Application it is stated that the suit was restored on 22 August 2014.

2. This Civil Application appeared on board on 14 June 2016, 15 June 2016, 22 July 2016 when none appeared, it was dismissed and subsequently restored. Even though liberty has been granted to the Applicant to revive the Writ Petition, it cannot be lost sight of that there is no interim order in favour of the Applicant since 23 February 2005, when it was vacated. The suit was dismissed for non-prosecution by the Applicant. It was restored by the learned Judge by showing indulgence. However, the same apathy continues in these proceedings. If in this manner there has been no interim relief for last 11 years without there being any fault of the Respondent, even if the Petition is taken up for consideration, there is no question of grant of any interim order.

3. In the circumstances, even if the Civil Application is restored and the Writ Petition is taken up for consideration on merits, no ground is made out for grant of any relief after lapse of 11 years. In the circumstances, the Civil Application cannot be entertained and is rejected. All contentions of the parties on the merits of the suit are kept open and the observations made in the impugned order are prima-facie.

(N.M. Jamdar, J.)