

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.111 OF 2016

IN

REVIEW PETITION NO.61 OF 2016

IN

WRIT PETITION NO.285 OF 2016

(Maruti Antu Yevle Vs. Sayaji Sampat Salunkhe and others)

Office Notes, Office Memoranda of Coram, appearances, Court's orders, or directions, and Registrar's Orders	Court's or Judge's orders
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Mr. Umesh Pawar for Applicant.

CORAM : R. G. KETKAR, J.**DATE : 30TH SEPTEMBER, 2016****P.C.:**

Heard Mr. Pawar, learned Counsel for applicant.

2. This is an application for condonation of delay of 43 days caused in filing the Review Petition. By order dated 25.04.2016, notice was issued to the respondents. Office remark shows that respondents No.1 to 13 are duly served. However, despite service, none appears. No reply is filed opposing the application.

3. In view thereof and for the reasons stated in the Application, Civil application is allowed in terms of prayer clause (a) with no order as to costs.

Review Petition No.61 of 2016

Not on Board. At the request of Mr. Pawar, learned

Counsel for the petitioner, taken up for admission.

2. By this Petition, petitioner has sought review of order dated 15.01.2016 passed by this Court in Writ Petition No.284 of 2016. Petition was instituted challenging order dated 23.10.2015 passed by the learned trial Judge rejecting the application made by the petitioner under Order VI, Rule 17 of the Code of Civil Procedure, 1908 (for short 'C.P.C.'). Application was rejected by the trial Court on the ground that the matter was for disposal and at that stage, petitioner made application for amending the plaint. There was no explanation as to why at earlier point of time, the application for amendment was not made. Apart from that, the learned trial Judge observed that the proposed amendment is totally vague and petitioner-plaintiff is not interested in proceeding with the Suit and is rather interested in delaying the Suit. The Suit was on the verge of disposal.

3. Mr. Pawar submitted that as the earlier application was dismissed on the ground that it was vague, petitioner will file fresh application under Order VI, Rule 17 of the C.P.C. within two weeks from today. He submitted that all the contentions of the respondents may be kept open.

4. I have considered the submissions advanced by Mr. Pawar. I do not find that any case for review of the order dated 15.01.2016 is made out. Hence, Review Petition fails and the same is dismissed. Petitioner will however,

be at liberty to file application for amending the plaint under Order VI, Rule 17 of C.P.C. Such application shall be filed within two weeks from today. Grant of liberty shall not be construed as an expression of merits either way. All the contentions of the respondents, including the maintainability of such application, are expressly kept open. Order accordingly.

(R. G. KETKAR, J.)

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