

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

*CIVIL APPLICATION NO. 180 OF 2015  
IN  
REVIEW PETITION (ST) NO. 17797 OF 2015  
IN  
CIVIL REVN. APPLICATION NO. 1074 OF 2014*

Mrs.Ivy Lawrence alvares

2. Mr.Austin Lawrence Alvares,

Both residing at House No.54A, 1<sup>st</sup> flr.,

Misquitta Street, Vile-Parle (East), Mumbai – 57.

... Petitioners/  
Ori. Applicants

v/s

Mrs.Joanna Francis Correa

(since deceased, through Legal heirs)

1 (a). Smt.Yvette D'Souza & ors.

... Respondents

Mr.Sushil Upadhyay along with Ms.Devki Sahu for the applicant in CAO No.180 of 2015 and petitioner in Review Petition (St) No.17797 of 2015.

None present for the respondents.

*Coram: N.M. Jamdar, J.*

*Dated: 26 April 2016*

***ORAL ORDER:***

The civil application is taken out for condonation of delay in filing the review petition. The review sought is of the order dated 6 May 2015.

2 The Applicants, tenants of the premises, had challenged the concurrent orders passed by the Small Causes Court, Mumbai, directing their eviction from the premises. The Revision was dismissed and by way

of indulgence, six months' time to vacate the premises was granted to the Applicants on their filing an undertaking by 10 June 2015. When the civil application came up on board on 27 January 2016, time was sought on behalf of the Applicants and the following order was passed :

*'P.C.:*

*At the request of the learned counsel for the applicant, stand over to the next C.M.I.S. date i.e. 15 March 2016.*

*2. It is clarified that there is no interim relief or protection operating in this application or in the review petition. By order dated 6 May 2015, it was directed that if undertakings were not to be filed by 10 June 2015, the decree shall become executable forthwith.'*

Thereafter, on 15 March 2016, again time was sought and the following order was passed :

*'P.C.:*

*As noted earlier in the order under review, after dismissal of the Civil Revision application, time was granted to the Applicants to vacate the premises by filing an undertaking by 10 June 2015. The Applicants continued in the premises on the basis of this order and after the time for filing an undertaking had elapsed, has filed the present review application. Even the time granted under the order has elapsed on 7 November 2015.*

*2. In the circumstances, I am not inclined to interfere with the review petition itself. However, since learned counsel for the Applicants seeks time to take instructions to find out whether the decree itself is executed, stand over to the next C.M.I.S. date i.e. 26 April 2016, for dismissal.'*

Matter is placed on board for dismissal today.

3      It was stated in the order dated 15 March 2016 that, time was granted to the Applicants to vacate the premises by filing an undertaking by 10 June 2015 and the Applicants continued in the premises on the basis of the order after the time for filing an undertaking had elapsed and even after the time was granted to vacate had elapsed. Having taken advantage of that part of the order which permits the Applicants to continue in the premises inspite of dismissal of the civil revision application, now it is not open to the Applicant to seek review of the order. If the Applicants were aggrieved, they ought to have challenged the order before 10 June 2015. These proceedings are nothing but an abuse of process of law. The reasons given for condonation of delay are not satisfactory. Even if condonation of delay is to be granted, there is no merit in the review petition and it will be therefore pointless to entertain the application for condonation of delay.

3      The civil application is accordingly rejected.

4      The review petition accordingly stands disposed of.

*( N. M. JAMDAR, J. )*